## THE MYSORE HIGH COURT BILL, 1959.

*Motion to consider*

Sri B. VAIKUNTA BALIGA.—I beg to move:

"That the Mysore High Court Bill, 1959, be taken into consideration"

Mr. SPEAKER.—Motion moved:

"That the Mysore High Court Bill, 1959, be taken into consideration."

†Sri M. C. NARASIMHAN.—This Bill relates to what may be termed regulating the business and organisation of the High Court in the State of Mysore. I wonder if it can be entertained in terms of two items mentioned in the Constitution which reqire careful consideration by this House. There is chapter dealing with the High Court. There are some clauses which say about the organisation, about the appointment of Judges of the High Court, we are not specially concerned with that, because that does not cover the subject-matter of this piece of legislation. But I am afraid that this might fall within the meaning of subject mentioned in the Seventh Schedule of Constitution which is exclusively mentioned in the Union List. I have in mind item No. 78 of the Union List. It specifically mentions the constitution and organisation of the High Court. I can understand the word 'constitution'. This is not the subject-matter of the Bill. I can understand that 'constitution' has some reference to the set up, the total strength, qualifications, etc. But organisation of the High Court has something to do with the administrative powers, etc., of the High Court. So the subject-matter of the Bill is partly for the purpose or regulating the business of the High Court and partly for setting up a Division Bench and also prescribing what is the type of cases which come by way of first appeal and second appeal and also for determininig whether the matter should be dealt with by one Judge or two Judges. This has something to do with the organisation of the High Court as such, I do not think the subject-matter of this Bill comes within the ambit of the State List. It is No. 65 "Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List." But there is no specific matter mentioned in the State List which is analogous to what is the subject-matter of the Bill. If the subject-matter was what is mentioned in the State List, certainly then the Legislature was competent to enact this law because this comes definitely within the purview of the State list. I am very clear that this is not taken care of by the State List as mentioned in No. 65. In the Concurrent List also there is no subject with reference to the High Court excepting this one: No. 46: 'Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.'

Once again, it specifically restricts the jurisdiction and power to the matters mentioned in the list; that is, it must be in the Concurrent List. Or on the state list if it is not either in the Concurret List or in the State List, I wonder whether this Legislature can enact a law in respect of this matter. I am afraid that it may fall within the the Union List. If it is argued that it does not fall within the Union List, my question is, please show whether it comes either within the Concurrent List or the State List. Since it does not come within the State List or the Concurrent List, I wonder whether this Legislature is competent to enact this legislation. That is one objection.

There is another objection. According to the States Reorganisation Act, the powers and Jurisdiction of this Court, that is, the High Court of Mysore as such as those that are governed by laws in force already; that is, the Mysore High Court Act. It is this Act that governs really the powers of the High Court and no more than that. Now, if that is the position, where is the necessity for a legislation of this kind unless it is by way of an amendment to that? There is a reference to section 69 of the States Reorganisation Act. It says that nothing in this Bill shall affect the provisions of the Constitution. We are not governed by that. "...... subject to any provision that may be made with respect to the High Court by any Legislature or other authority having power to make such provision". Even section 69 says that if the Legislature has such powers as are contemplated in this, then it can enact. It cannot be traced in the provisions of the Constitution I wonder how section 69 of the S.R. Act can save this Bill.

Sri B. Vaikunta Baliga (Minister for Law and Labour).—Sir, the point that has been raised by the Hon'ble Member and the arguments or the reasons in support of it are not new. They have been conceded and dealt with, particulary, by a decision reported in 1960 India Law Reports—Kerala series at page 734. Sir, the principles enunciated can very well be adopted as my argument and reason in support of the position taken by me, namely that this House is fully competent, absolutely competent to enact this. We must not forget the distinction between Constitution and Organisation of the High Court and the rest of the Matters. When I mention the history of the Mysore High Court, the constitution of it is clear that it was constituted as early as 1884. When the S.R. Act took place, under section 50 the new High Court was constituted. The constitution is over, the organisational part is over. What remains is only the procedural part. This Bill does not provide for a High Court; High Court is there functioning absolutely independent of the Bill. All that is provided in the Bill is with regard to the procedural details which are to be followed and this is well within the competence of the State Government.

The judgment is on page 734 of the Indian Law Reports.

"It was contended that in passing the High Court Act the State Legislature has transgressed the limits of its legislative

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competence. It was contended that the provisions contained in the Act deal with the constitution, organisation, jurisdiction and powers of the High Court and that Parliament alone could legislate on such topics and as such the Act is *ultra vires* of the powers of the State Legislature."

The Court held :

"It is obvious that the constitution and organisation of the High Court is not in any way intended to be affected by the Act. On the other hand, the Act proceeds on the basis that there is a High Court in existence duly constituted and organised for the State of Kerala."

Sir, such is a case here in Mysore that there is a High Court duly constituted and organised for the State of Mysore.

"From several provisions of the Act it is clear that the new Act has merely provided for the internal working of the High Court by enacting a law to regulate the practice and procedure of the Court and also the power to be exercised by the Judges sitting alone or in Division Benches, consisting of two or more Judges. This is a law coming strictly within the ambit of the legislative head "Administration of justice" included in Entry 3 of List 2. In the nature and scope of the Act impugned in this case, it is unnecessary to invoke the doctrine of pith and substance for maintaining the validity of the Act, because the Act is seen to be wholly within the competence of the State Legislature and there is nothing in it to indicate that it has in any way encroached upon the field of legislation exclusively assigned to Parliament. Accordingly it has to be held that the Kerala High Court Act (Act V of 1959) is *intra vires* the powers of the State Legislature and that the Act is valid."

Then, Sir, there are several other principles also enunciated in this Bill. I do not think my friend had the benefit of reading the judgement and in the light of what is decided here, it would be accepted by this House. I am sure, after what I have submitted, my friend will not pursue his argument that it is beyond the competence of the legislature.

Sri J. B. MALLARADHYA.—Is there not a decision of the Supreme Court ; why did you choose only Kerala (*Laughter*)

Sri B. VAIKUNTA BALIGA.—Sir, if one is not enough, we can refer to the other. This is sufficient for the purpose of disposing the objecttion that has been raised.

Mr. SPEAKER.—I would like to read the 7th Schedule, State List—II—3. "Administration of justice ; constitution and organisation of all courts, except the Supreme Court and the High Court ; officers and servants of the High Court ; procedure in rent and revenue courts ; fees taken in all courts except the Supreme Court,"

If one read this with entry 65 of the same Schedule, one will come to the conclusion that the Legislature and has power to past such a law. I will read entry 65 ; "Jurisidiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List". So, it clearly falls within the State List. So, this Assembly has the power to consider the Bill.

Sri B. VAIKUNTA BALIGA.—Sir, so far as the history of the High Court is concerned, I shall briefly invite the attention of the House that the Mysore High Court Act of 1884 constituted the High Court which was administering justice within the State of Mysore. Thereafter, section 50 of the States Reorganisation Act abolished that and established a new High Court for the new State. But, in the meanwhile, under section 52 it was provided that so far as the respective areas are concerned, the procedure and the powers of the judges of the new High Court shall be the same as those that are prevailing in the respective areas. Under section 52, the High Court has, in respect of the different areas of the State such original, appellate or other jurisdiction, which under the laws in force before 1st November 1956, the High Courts of Bombay, Hyderabad, Madras and Mysore had in the areas concerned. It is also provided in section 54 that the provisions of the Mysore High Court Act, 1884 are applicable in respect of the practice and procedure in relation to the High Court of the new State, and by virtue of section 57. the provisions of the said Act are applicable in respect of powers of the Chief Justice, single Judges and Division Court on matters of salary to the exercise of those powers. Sir, it was one expressly provided in section 69 that such should be the case till the new High Court could be constituted by legislature or by any other authority having power to make such provision. Sir, the Government of India suggested that the enactment of a uniform law by the State Legislature my be undertaken by the State so that the High Court may exercise the same powers and jurisdictions in respect of the whole of the new area rather than have different patterns for small packets or portions of the State. In that connection the State Government had also the benefit of consultation with the High Court and the recommendations of the Law Commission. Having taken all the expert and necessary legal advice, this Bill has been introduced and I am sure that it will find acceptance because very great deliberations, deep study and deep thought have been bestowed on it.

Sir, if I may invite very briefly attention of the House to the particular provisions that are provided there under section 4, appeals from decisions of a single Judge of the High Court, under which such powers is provided where power is exercised by a single Judge with regard to original jurisdiction of the High Court, an appeal shall lie and be considered by a bench of two other judges of the High Court.

With regard to the first appeals also it is provided that all first appeals and criminal appeals and and all cases referred to High Court

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for confirmation of a sentence of death shall be heard by a bench consisting of not less than to Judges of the High Court:

Sir, these being very important matters it is specifically provided:

"That a Criminal Appeal from a judgement in which no sentence of death or imprisonment for life, or imprisonment for a period of exceeding seven years, is passed against any accused, who has preferred an appeal, may be heard by a single Judge of the High Court."

Sir, provision has been made also with regard to the second appeal. This is practically bringing it in conformity with the practice prevailing in the majority of high courts in the various States.

There is a feeling that there may be reference to full bench with regard to very important matters.

That provision has been made in clause 7.

Clause 8 deals with the powers of a single judge to dispose of revision cases himself or refer the same to a Bench. It does occur on times that though the subject matter of the case is very petty questions of great importance are involved and it is left to the discretion of the judge to judge to quickly decide that or if he feels that it is a very important matter that ought to engage the attention of more judges, that could also be done.

The rest are provisions practically in conformity with the general practice that is prevailing and I do not think it will be necessary for me to refer to it in great detail or to the language of these provisions. I shall prefer to wait and see what criticism is offered so that I may meet them. I am told Sir, that there has been deep study and there is going to be severe criticism of the various provisions. So, I will rather await with interest the criticisms that will be offered so that I may attempt to meet them to the extent that it lies in my power.

Sri J. B. MALLARADHYA (Nanjangud).—Sir I move.

"That the time allotted by the House for the consideration of this Bill be extended by at least two and half an hours."

MR. SPEAKER.—The question is:

"That the time allotted by the House for the consideration of this Bill be extended by at least two and half an hours."

*The motion was adopted.*

Sri J. B. MALLARADHYA (Nanjangud).—Sir, I am glad my friend Sri Narasimhan raised the question whether this House is competent to consider this Bill. I do not know why he raised such a question. He is usually correct and sure of his grounds. But on this occasion he missed some of the decesions that were already there

I consider this a very important Bill from the point of view of the entire State. The administration of justice is the concern of the State Government and I know that this administration of Justice is also in the schedule of State Government subject to certain conditions. We are all devoting our energies and resources to nation-building activities which farm part of the five year plan and I consider as a citizen that the administration of justice is an equally important matter to the State and its people. It is against this background that I consider that this is a very important Bill which affects the entire State.

While moving the Bill for consideration, I wish the Hon'ble Minister for Law had indicated at least in broad general terms what was the provocation for this Bill. He said at one stage that the Government of India wanted a uniform Bill that would be applicable to all the courts in the country and that is the reason why he brought this Bill. I rather think there should have been more weighty reasons than merely a suggestion from the Government of India.

The States Reorganisation Act came into force on 31st October 1956. It is very nearly five years and the Mysore High Court is governed as stated by the Hon'ble Minister for Law, by section 52, 54, 57, 69 of the S. R. Act. Government has no explanation as to why there was this inordinate delay in bringing this measure before this House and getting it passed. No explanation is offered. Is this Bill intended to promote and secure for the citizen of the State more speedily dispensation of justice. That should be the primary consideration. What is the present position so far as the Mysore High Court is concerned? Are there sufficient number of Judges? and can they cope with the ever increasing volume of work? Is there any proposal for the appointment of additional judges made by the Chief Justice and if so, and at what stage it is? As I said earlier, merely because the Government of India wants an enactment of Law, I do not think the Hon'ble Minister could persuade this Hon'ble House to accept this piece of legislation. What are the difficulties that the High Court has met with in the administration of justice either with regard to the practice and procedure or in what respect is this Bill going to be an improvement on the existing procedure and practice? Sir, I should have been very happy if the Hon'ble Minister had furnished this information to the Members of this Hon'ble House in regard to the present position with reference to pendency of cases under all categories. I am saying this because, under section 11, you want certain statements from the High Court certain returns, reports and other papers to be placed before you. Otherwise, I would not have mentioned it at all. This is relevant only with reference to section 11. You have said that you have drafted this Bill in consultation with the High Court and you say that you had also the benefit of the Report of the Law Commission. Sir, I shall be grateful to the Hon'ble Minister if he will kindly draw my attention to the relevant section in the Law Commission's Report with refence to the several recommendations made in this Bill; because I have gone through two volumes of the Report of the Law Commission

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and I do not think that in any particular place they have lent support That is why I am asking the Hon'ble Law Minister to draw my attention to certain provisions of the Bill before us. That is why I am asking the Honourable Law Minister to draw my attention to the specific paragraphs of the Law Commission's report which lend support to the provisions made in this Bill.

2-30 P.M.

Coming to administration of justice in this country it is within the knowledge of the Hon'ble Members of this House and more so in the case of the Hon'ble Minister for Law that there are three chaptered high courts in the country which came into existence on a letters patent of 1865 issued by the British Crown. I refer to the Calcutta, Bombay and Madras High Courts. According to one particular provision in those letters patent of the British Sovereign under which even today the Madras, Bombay and Calcutta High Courts are functioning, there is provision for appeal from an order of a single judge to a Division Bench of the Court concerned. Those courts have got original civil jurisdiction. In roads have been made into that original civil jurisdiction from time to time by passing the City Courts Act and the Town Courts Act in these three towns. The Mysore High Court in my opinion should be deemed to be the highest court so far as the citizens of Mysore State are concerned. We in the Legislature should do everything in our power to give it the status as the highest court in the land. I know the Supreme Court exists in our country; I am not unmindful of the existence of the Supreme Court, but how many of the litigant people are competent to approach the Supreme Court in every matter? Take for example the pecuniary jurisdiction of the Supreme Court. If it exceeds Rs. 20,000 you will have to go there, but what is the cost involved? In considering this Bill the supreme position that is occupied by the High Court in Mysore has got to be taken into consideration. For the last two years the Mysore High Court has earned a distinction of being one of the best courts in the country. I am not going to say anything more than that. It has earned the esteem of the people in general, the litigant people, the lawyers and the Government. I do not know if it is uniform in the case of Government.

Sri B. VAIKUNTA BALIGA.—Government have got the highest respect.

Sri J. B. MALLARADHYA.—One of the things that the Mysore High Court has done is that it has inspired public confidence in a degree which is unparalleled in the history of administration of justice in Mysore. I am saying this not without sufficient reason. In this connection I wish to bring to the notice of the Minister the system that prevails in a country like Russia. My friend Sri Narasimhan would be very happy to learn that the system of judicary in Russia is such that even in the smallest court they have multiple judges even with a pecuniary jurisdiction of Rs. 2500 which is corresponding to our munisiff courts. I am

not suggesting that that system must be transplated here. I mention this only to show that in dealing with this Bill you are trying to give enormous powers to a single judge. I take it that the primary intension is to secure speedy dispensation of justice and you want to avoid delays. Talking of delays, law's delays have become proverbial. In spite of every attempt to avoid delays, it has become more proverbial. Law's delays are as old as anything. Ever since *Eve* and *Adam* came into existence law's delays are being spoken of. One reads of it in Hereditos. Complaints of this nature are being rapeated in many countries like America, England and other European countries. It is only speedy dispensation of justice that gives certainty and definiteness to the rights and obligations in democracy. If this Bill is going to secure speedy dispensation of justice then you will have the support of the House with such modifications as may be suggested or agreed to by us. Having regard to this, what should be the normal strength of the court, what steps Government have taken to give it the maximum strength to cope with the increasing volume of work, will have to be seen. Speaking of the general volume of work now, as you are aware, there is a growing volume of litigation following the industrial, economic advanment of this country and the expansion of the High Court's special jurisdiction under a variety of fiscal enactments like Income Tax, Sales Tax and other special laws. As far back as 1949 this was observed by the High Court Arrears Committee. A very recent example of the conferment of special jurisdiction on the High Court is under the Representation of the Peoples Act under which the High Court of Mysore has to hear appeals on the decisons of the Election Tribunals. This is sufficient proof to show that there is a growing volume of expansion work in this High Court. There are applications for enforcement of the fundamental rights under the Constitution. There are applications to restrain the usurpation of rights by administrative bodies. There are applications and suits challenging the constitutionality of laws which have made large additions to the pending files of the High Court. Many laws framed by many Legislatures notably by this Legislature have been found to be inconsistent with the Constitution. Specially after integration and the coming into existence of the States Re-organisation Act we have failed to secure uniformity of legislation in the entire Mysore State and the existence of different laws in different parts of the country has led to lot of confusion and complexity and this has increased the work of the High Court. The complexity of recent legislation has resulted in a large number of novel and difficult questions being brought before the High Court. The decision of a single Judge has had to be referred to full bench in many cases and this has resulted in the available judge power not being utilized to the maximum extent possible. I am asking, whether having regard to all these considerations this Bill is going to provide any adequate remedy or efficient vehicle of removing those difficulties.

I am now coming to certain sections of the Bill. Section three says that the High Court shall have a Registrar and as many Deputy

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Registrars as may be determined by the Governor in consultation with the High Court.

I am wondering how the Hon'ble Law Minister who has himself been a great lawyer of long standing and has been one of the foremost members of the bar, agreed to this provision in this Bill. The appointment of Registrars and Deputy Registrars is a domestic matter of the High Court. It is true that this House votes the expenditure when the question comes up before the House. Apart from that, why should the Government and particularly the Governor, determine the correctness of the demand for staff from the High Court. I fail to understand how the Governor comes in the staffing of the High Court. In such a matter the Governor can hardly identify himself with the Government. Since this is a party Government it looks as if the Government want to have their own Registars and Deputy Registrars to act as spies on the administration of justice in the High Court.

It lends colour to that view. I am not making that accusation. It is hardly appropriate that you should make the Governor determine the staff of the High Court. There is a more serious aspect of the case. This offends against the very concept of the independence of the judiciary. It amounts to an untramelled intereference in the affairs of the High Court by a conscienceless executive machinery. This idea of the independence of the judiciary is accepted and enshrined in our Constitution. Are you not going to offend the Constitution itself if you invest this power of appointing Registrar in the Governor. I do not know why you did not go lower down the scale and said the Governor can appoint Superintendents. It looks rather funny that such a provision should find a place. I am making lot of stress on this point because this independence of the judiciary is a very important matter and the moment there is interference in the work of the High Court, there is no question of the existence of the rule of law. If there is no rule of law, there is a complete breakdown of all democratic traditions. I consider that this section looked from any point of view is an utterly inappropriate provision. I think that if the Chief Justice could be trusted to be a fountain-head of all justice in a particular State, he should be trusted to decide the quantum of the staff that he wants or the selection or the fixation of the Deputy Registrars. If on grounds of administrative convenience it is necessary the Chief Minister may consult him and decide the issue but I would very much insist that interference from the Executive should be eliminated altogether. I somehow feel that this provision should not have found a place in this Bill.

Coming to Clause six, it says that all second appeals shall be heard and disposed of by a single Judge. In regard to this single Judge, I have some thing to say. The principle underlying the constitution of a bench is that it will eliminate the possibility of miscarriage of justice. I have nothing particular to say against any judge. I am

hardly competent to do it and it would be inappropriate if anybody commented on the work of the highest court of the country and in a State where there is no unconditional respect to the judiciary, there is danger of miscarriage of justice. If the intention of Government is to see that there is no miscarriage of justice, it is always necessary that there should be not a single judge but a bench of judges to decide a case. There is a proviso to clause six which give discretion to the judge in a particular case to refer it to the bench if he thinks that it involves a substantial question of law. I am not one of those persons who would agree to this kind of alternative or discretion being left to a single judge. If you want an end to litigation the best thing is to constitute a bench of two judges atleast for disposal of every matter. Government should not, I consider, think of the question of cost in this affair. Laterly I find that the increase in the scale of stamp fees and court fees, Government is trying to make a profit out of this particular source. The budget shows that you are recovering quite a large sum of money. Look at this problem from the point of view of the litigant public. On view that is expressed is that if you make litigation prohibitive, there would not be so many cases, and on the other hand, we find that this is not proved with reference to facts. The more you go on increasing the scale of stamp fees, the greater is the number of cases instituted in every court. Cost should not come into consideration in increasing the number of judges. The principle involved in constituting single judges or a bench of judges is that if there are more judges than one, the margin of error will be narrowed. There is a greater possiblity of a single judge making a mistake and mistakes could be eliminated if there is more than one judge. This is an essential principle on which I consider there is an appropriate view in favour of the constitution of a bench of judges. In a country like Russia, the judicial system provides for a multiplicity of judges even in respect of the lowest court.

I would now come to clause eight which empowers a Judge to dispose of revision cases or refer them to a bench. I cannot understand the exception to this clause, that is that he cannot quash orders of commitment. If he cannot dispose of revision petitions himself could he not decide this comparatively simple matter.

Coming to the question of 'Other Powers of a single Judge,' I invite attention to clause 9 (3) which provides for exercise of original jurisdiction under any law for the time being in force. This I presume includes cases of writ jurisdiction. You know that a large volume of writ petitions are being filed in the Mysore High Court, particular writ petitions against the Government and against the University. I do not think that in the history of Mysore's administration so many writs were filed, even after the Constitution was enforced in this State. I do not think that in any other High Court such voluminous writs have been filed against the Government and againist the University. You are aware that these writ petitions are filed with reference to the ignoring of the elementary princiles of natural justice by people who are

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administering law in this State. There is more often a miscarriage of the provisions of law both by Government and by the administrative bodies concerned. Oftentimes the Mysore Hight Court has proved that there is a *malafide* exercise of power vested in the executive under the several statutes. If you want me to name a few recent cases, I will mention them, but it is unnecessary. I do not wish to embarrass Government in any manner.

Sri B. VAIKUNTA BALIGA.—It is not embarrassing.

ಶ್ರೀ ಜೆ. ಬಿ. ಮಲ್ಲಾರಾಧ್ಯ.—ಸರ್ಕಾರದವರೇ ಅಲ್ಲಿಹೋಗಿ ಸಮತ ಒಡೆದಪೋರೆ ಇನ್ನೇನೆಂದು ನಾವು ಇಲ್ಲಿ ಹೇಳಬೇಕು.

In one or two recent incidents...........

Sri. B. VAIKUNTA BALIGA.—My friend is creating more mischief by implication and suggestion rather than by narration.

Sri J. B. MALLARADHYA —Now the Hon'ble Minister has said this, I wish to ask: what happened in the case of Manchigaiah. Here is a organised Government which makes an order against an officer of Government who served the State for more than 25 years. What happened during the course of the arguments in this case and what is the suggestion of the Cheif Justice? Here is a glaring case of gross mis-use or *malafide* exercise of power at the highest level. In trying to give punishment to an individual, have you made sure that he is unquestionably guilty. What the High Court did, Government itself could have done.

These writ petitions are becoming the order of the day. If only section 9 (iii) is allowed to be there as it is, a lot of harm will be done. You are aware that in one are two cases which are notable, which have come to the notice of the public, not even an opportunity was given to the agrieved person to explain their conduct and it is as a result of that, writ petitions were filed before the High Court. The high-handeness of the officers and the whimsical attitude of some of the Minisers and whimsical decisions taken by the Government contrary to law-these are some of the reasons which prevailed in filing writ petitions in such large number. While on the subject, I have a suggestion to make. In a democracy where some of the uncrupulous people come into power, I am wondering why some provision should not be made to open a school for some Ministers and officers by giving them training in how to administer the law. I am not saying that in a sense of carping criticism, but I am honest in expressing the view that there is a very strong case for at least providing a course of lectures by eminent jurists. by retired judges or even judges now in office. I feel that some of the elementary principles of law of have been ignored in dealing with men and matters. This is colossal ignorance. By the institution of a college or school of instructions to officers and Ministers more notably, they may profit by this kind of thing and they may eliminate the possiblity of a

large number of writ petitions. The existence of the criminal procedure code is ignored by some of the officers. I cannot understand a Minister being included in a party of raiders. Can you ever imagine a thing like that happening, being a witness to the railing of an illicit distillation, going to the villages and organising the raid. Some of these things look fantastic. Is that the job of a Minister. It has become a street talk and everybody is wondering whether there is any provision of law in force. On the top of it we see beautiful photographs appearing in some daily newspapers. We see that there is a lot of celebration of raids in respect of illicit destillation centres. Tomorrow the Minister in charge of prohibition or the Minister for Home may be cited as a witness by an accused. What will be the embarassing position. I have nothing against the Minister who is simply carried away by a wave enthusiasm. The point is, the existence of provisions of law is being ignored. It is not as if he is ignorant of the provisions of law. That is the reason why I say that as part of the scheme of traning our I.A.S. and I.P.S. officers, there must be more rigorous enforcement of the legal training to be given to them. At the Secretariat level, whenever they deal with files, don't examine the legal aspect. In a matter which is of a simple nature, they are not prepared to the take the risk ; why should everything, a silly matter be referred to the Law Secretary for opinion. That one of the fertile sources of delay. On many occasions there is no need to consult the Law Secretary because it is too silly a matter every officer is interested in passing the Secretariat file to the Law Secretary so that it might rot for a few months. Take the case of revenue officers. They think that there is no land revenue code and the land revenue rules. What is that Tahsildar, a Sub-Division Officer or a Deputy Commissioner cannot do ? I am not brought up in that tradition' you might say ; but I am afraid it would not be a correct allegation to make. There were revenue officers who had very great respect for revenue law. Where discretion was allowed, they used discretion and reasonable exercise of discretion. But you cannot go against the provisions of law. That is why I say that legal training must be made more effective and fruitful.

I would like to invite reference to article. 133 of the Indian Constitution. 'Appellate jurisdiction of Supreme Court in appeals from High Court in regard to civil matters.' Why I am inviting attention to this is, I stated earlier that for all practical purposes. The Mysore High Court should be the Supreme Court so far as the citizens of Mysore are concerned. Take for instance the work done or going to be done by a single Judge as contemplated in this particular Bill. Supposing the value of the property is Rs. 20,000 or less than that. Take for example 20 acres of wet land in an area like Seringapatnam. An acre there which will cost sometimes Rs. 7,000, 8000. 20 acres would cost more than Rs. 1, 50,000. For purposes of court fee stamps, you are taking assessment of land revenue. It would be not more than Rs. 200 to 300. Look at the stakes involved. In a case of this kind, no appeal from a

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decision of a single Judge can lie to the Supreme Court; It can only lie to the Bench of two Judges in the same Court. If you are going to give more powers to the single Judge, I am afraid there will be serious miscarriage of justice or we must eliminate the possibility of miscarriage of justice. I think it offends the very fundamental principle of trying to narrow down the margin of error in the dispensation of justice. I was talking about writ petitions. If the idea is to eliminate delay in the disposal of writ petitions, supposing a writ petition is disposed of by single Judge; according to section 9 (iii), an appeal will lie to a Bench of Judges, which means there is going to be delay. You are not going to help the aggrieved party by providing only a consideration of writ petition by a single Judge.

Sri B. VAIKUNTA BALIGA.—If I may remind the Honourable Member, he is forgetting clause 10 (iv) (4) which deal with writ petitions and if he assumes that clause 9 (iii) deals with it, he may kindly correct himself.

Sri J. B. MALLARADHYA.—The clause says:

> "The power of the High Court in relation to the following matters shall be exercised by a single Judge..."

What is the fun of saying 'exercise orginal jurisdiction under any law for the time being in force'. The words 'any law'. includes writ jurisdiction. Sir, My friend Sri Srinivasa Shetty tells me that in a number of High Courts there are single judges. But, I am against it I am against conferring too much of power to the single judge. The Government seems to be afraid of incurring additional expenditure and unwilling or reluctant in increasing the number of judges. I am coming that point later.

Mr: SPEAKER.—The House will now rise and meet after half-an-hour.

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*The House djourned for Recess at Five Minutes past Three of the Clock and reassembled at Forty Minutes past Three of the Clock.*

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[MR. DEPUTY SPEAKER in the Chair]

Sri J. B. MALLARADHYA.—Sir, I was referring to sub-section (3) of section 9. I consider that the exercise of original jurisdiction under any lay for the time being in force except as provided under clause 10. Why I am making this observation was that in respect of a single judge even when the present practice in the Mysore High Court is that two are in charge of writ petitions, the provision under clause 4 would be making matters worse than what they are at present.

Sir, take again clause 10 (iv) which relates to the exercise of powers under clause (1) of Article 226, 227 and article 228 of the Constitution of India. You may say in cases except those under Articles 228, 229 of the Constitution.

Sri B. VAIKUNTA BALIGA.—There are amendments suggesting the same.

Sri J. B. MALLARADHYA.—We have not received copies of amendment.

Sir, I invite the attention of the Hon'ble Minister to section 11:

> "The High Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the court and shall forward to the State Government such copies of, or extracts from, the said registers, books and accounts, as well as such statement of the work done in the High Courts and in the courts subordinate thereto, as may be required by the State Government."

If the Government is going to get all the information, will they place a report of the working of the High Court before this Hon'ble House. We may not be empowered to comment on it. It is an excluded subject possibly. But what is the object of the Government in getting and not Members of the House getting any information about it? What use will it be unless we ask a few questions about how many writ petitions were disposed of and so on. You want to get legislative power to enforce the production of these documents by the High Court and I want to know whether Members of the House are not entitled to get a copy of the report and accounts and other statements. Of course, I cannot place the High Court on the same category as the State Electricity Board and the Public Service Commission. It is not my intention to do that. But let the Members of this Hon'ble House get the benefit of having a copy of these reports. Let the Government print a copy and place it before the Hon'ble House. That is the point which I want to make.

In regard to the vacation judge, I want to know why a sigle judge is appointed as vacation judge, even there you say: "except in cases in which such jurisdiction must be exercised under the provision of any law for the time being in force by more than one judges'. Is there any special difficulty in constituting a bench to act as vacation judges. Why I ask this is, it is consistent with my earlier argument that I am generally in favour of more than one judge for the disposal of important cases. I am not in fact opposed to the powers to be exercised by a single judge under clause 9. That makes it abundantly clear that I am not going the whole hog so for as the powers of a single judge is concerned. But let there be a bench of judges who dispose of urgent matters without waiting for a bench of judges after the vacation. That is the point.

Sir, I want to invite attention to the statement of objects and reasons. I have already ascertained by way of information what are the recommendations of the Law Commission in regard to certain special provisions of this Bill. Have they supported the view expressed in this Bill. wholeheartedly or is there room for difference?

(Sri J. B. MALLARADHYA)

In regard to clauses, you say this resulted in considerable delay in the disposal of such appeals—"At present all Criminal Appeals are being heard by a Bench of two Judges and this has resulted in considerable delay in the disposal of such appeals". I fundamentally differ from the view of the Hon'ble Minister. Though a single judge hears the writ petitions, there is always an appeal to the bench of judges. Instead of doing that, you could have constituted a bench to dispose of such cases. Why do you want a single judge. You say further:

> "Provision has therefore been made in Clause 5 for criminal appeals from judgments in which no sentence of death, imprisonment for life or imprisonment for a period exceeding seven years, is passed against any accused, being heard by a single Judge".

I somehow do not feel equal to aggreeing with you in this matter. I would like to have as a rule wherever there is a question of fundamental right is concerned, where there is an important case, where there is room for honest difference of opinion, then just to avoid miscarriage of justice, it is better that a bench is constituted. That is my object.

Once again, with reference to the appointment of judges, strength of judges, in the Mysore High Court—I was just going through the Report of S.R.C. and I was wondering whether the strength of the Mysore High Court is fixed in consonance with the demands made from the High Court from time to time and in relation to the number of cases pending and the accumulation of arrears At no stage this House is made aware of the correct position. We hear all kinds of things. There are two vacancies in the Mysore High Court at present. We do not know how many cases are pending. In other parts of India additional judges are appointed and even in Mysore additional judges were appointed only to reduce the pendency of cases They concentrate attention on this—no normal work is assigned to them. In Punjab for example, a State with an area of 48,075 sq. miles and a population of 1 crore 78 lakhs according to the Census of 1959, they have something like fifteen judges. Now they have seven permanent judges and two additional judges. In Mysore with a population of 2 crores even according to the Census there are only 7 judges. Considering the bigger area and bigger population that is not enough. I am asking whether there is any rationale in fixing the number of judges. I understand that the judge strength is being reviewed every two or three years. Why is it that in Mysore every day there are one or two vacancies? Government are reluctant to fill up these vacancies. I do not wish to dilate on the appointment of judges to the High Court, nor am I anxious to refer to the procedure. Somehow or other there is delay in filling up the existing vacancies. Even in spite of the enormous delay in the disposal of cases having regard to the increasing volume of work I do not think anybody can say today

that the disposals in the Mysore High Court are not satisfactory. I understand that in the context of disposals in other High Courts, our judiciary will compare very favourably after the increase of judges made last. The position was not so some time back before the strength was increased from Seven to Nine. I understand that there is immediate need for two more judges. I think in the interest of the State whatever considerations there may be whether political of otherwise, economic considerations should not come in the way of filling up the vacancies. In regard to a matter like this it is the Chief Justice of a particular High Court and the Chief Justice of India who should be the final arbiters. The State Government does come in the picture because they are the people to foot the Bill, but in regard to the necessity of having the required strength in any high court I think the Chief Justice should have the final word and no other consideration should come in. We hear very often that political considerations come in the matter of selection of judges. I think as Ceaser's wife Government must be above suspicion. The independence of judiciary has got to be respected and the voice of the Chief Justice in most of these matters will have to be final. Whatever discussions they may have between the Chief Minister and the Chief Justice it is all right, but the Chief Justice's voice should be final. I hear that there is one other practice which I think should be avoided. I understand that the Chief Ministers of States are making recommendations direct to the Central Government when they do not agree with the recommendations made by the High Court. This is a very unhealthy practice. Suppose a panel of names is sent by the Chief Justice. If there is an honest difference of opinion, let it be sent back to the Chief Justice to send a different panel, but no Chief Minister or no Government should send another panel direct to the Home Ministry of the Government of India suggesting altogether a different set of names, for it does not conduce to the harmonious functioning of the judiciary in any State. The independence of the judiciary in every sense of the expression has got to be maintained.

I wish to close by making once again reference to the paramount considerations in all these matters namely, that this Bill should be so modified as to eliminate the chances of delay and the chances of miscarriage of justice. With these two paramount considerations I somehow feel that you will have to minimise the powers to be exercised by a single judge. More often you must have matters disposed of by a bench of judges and nothing should come in the way of it, still less economic considerations.

With these few observations I wish to close my speech.

†ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ (ಗುಬ್ಬಿ) —ಸ್ವಾಮಿ, ಈ ಹೈಕೋರ್ಟ್ ಬಿಲ್ಲಿಗೆ ಈ ಸಭೆಯ ಒಪ್ಪಿಗೆ ಪಡೆದುಕೊಳ್ಳಬೇಕೆಂದು ಹೇಳಿ, ಈಗ ತಾನೆ ಕಾನೂನು ಮಂತ್ರಿಗಳಾಗಿರತಕ್ಕಂಥ ಬಾಳಿಗ ರವರು: "ಇದು ಬಹಳ ಸುಲಭವಾಗಿದೆ, ಇದನ್ನು ಒಪ್ಪಬಹುದು, ಇದನ್ನು ಅರ್ಧ ಘಂಟೆಯಲ್ಲಿ ಮುಗಿಸಬಹುದು" ಎಂದು ಹೇಳಿದರು. ಆದರೆ ಅಪೋಸಿಷನ್ ಲೀಡರ್‌ರವರು 2½ ಘಂಟೆಕಾಲ

(ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ)

ಈ ಬಿಲ್ಲಿಗೆ ಬೇಕೆಂದು ಕೇಳಿದ ಮೇಲೆ, ಅಧ್ಯಕ್ಷರು ಈ ಸಭೆಯ ಒಪ್ಪಿಗೆ ತೆಗೆದುಕೊಂಡು, ಕಾಲವನ್ನು ಜಾಸ್ತಿಮಾಡಿದರು.

ಈ ಬಿಲ್ಲಿನಲ್ಲಿ ಅಡಕವಾಗಿರತಕ್ಕಂಥ ಮತ್ತು ಇವರು ಹೇಳಿರತಕ್ಕಂಥ ಧ್ಯೇಯೋದ್ದೇಶಗಳ ಕಡೆಗೆ ಈ ಸಭೆಯ ಗಮನವನ್ನು ಸೆಳೆಯಲು ಸ್ವಲ್ಪ ಪ್ರಯತ್ನ ಮಾಡುತ್ತೇವೆ. ಇವರು Statement of objects and Reasons ನಲ್ಲಿ ಏನು ಹೇಳಿದ್ದಾರೆಂದರೆ. ಈ ರಾಜ್ಯ ವಿಶಾಲವಾದ ಮೇಲೆ, ಸ್ಟೇಟ್ ರೀಆರ್ಗನೇಸೇಶನ್ ಆದಮೇಲೆ, ಹೈಕೋರ್ಟುಗಳು ಹೀಗೆ ಹೀಗೆ ಕೆಲಸ ಮಾಡಬೇಕು, ಆದ್ದರಿಂದ ರಾಜ್ಯಾಂಗದ ಪ್ರಕಾರ, ಸ್ಟೇಟ್ಸ್ ರೀಆರ್ಗನೇಷೇಶನ್ ಆಕ್ಟ್ ಪ್ರಕಾರ ನಮ್ಮ ಸ್ಟೇಟ್ ಲೆಜಿಸ್ಲೇಚರಿಗೆ ಒಂದು ಕಾನೂನನ್ನು ಮಾಡುವುದಕ್ಕೆ ಅಧಿಕಾರವಿದೆ, ಹೈಕೋರ್ಟು ಜಡ್ಜುಗಳು ಇಷ್ಟು ಜನವಿರಬೇಕು, ಜಡ್ಜುಗಳು ಹೇಗೆ ಕೆಲಸ ಮಾಡಬೇಕು. ರಿಜಿಸ್ಟ್ರಾರರು ಇರಬೇಕೂ ಡೆಪ್ಯುಟಿ ರೆಜಿಸ್ಟ್ರಾರರು ಎಷ್ಟು ಜನವಿರಬೇಕೆಂದು ಡಿಟರ್‌ಮಿನ್ ಮಾಡುವುದು, ಲೆಕ್ಕಪತ್ರದ ಪಟ್ಟಿಯನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಒದಗಿಸುವುದು ಮುಂತಾದ ವಿಷಯಗಳನ್ನು ಹೇಳಿದ್ದಾರೆ. ಇದು ಎಲ್ಲಾ ಇಮಾಂ ಸಾಬಿಗೂ ಗೋಕುಲಾಷ್ಟಮಿಗೂ ಹೇಗೆ ಸಂಬಂಧವಿಲ್ಲವೋ ಹಾಗಿದೆ. ಅಂಥ ಮಸೂದೆಯನ್ನು ನಮ್ಮ ಮುಂದೆ ತಂದು ಒಪ್ಪಿಕೊಳ್ಳಿ ಎಂದು ಹೇಳುತ್ತಾ ಇದ್ದಾರೆ. ಈ ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ ಈ ಐದುವರ್ಷಗಳಲ್ಲಿ ಇವರನ್ನು ಮಂತ್ರಿಗಳಾಗಿದ್ದಾಗ ನೋಡಿದ್ದೇನೆ, ನ್ಯಾಯವಾದಿಗಳಾಗಿ ನೋಡಿದ್ದೇನೆ ಇಂಥ ಒಂದು ಮಸೂದೆಯನ್ನು ಈ ಸಭೆಯ ಮುಂದೆ ಮಂಡಿಸಿದಾಗ ಇವರು ಇದು ಸರಿಯಾಗಿಲ್ಲವೆಂದು ವಾದಮಾಡಿದ್ದರು. ಆದರೆ ತಿರುಗ ಮಂತ್ರಿಗಾದಿಗೆ ಬಂದ ಮೇಲೆ, ಈ ತರಹ ವಾದ ಮಾಡುವುದಕ್ಕೆ ಹೊರಟಿದ್ದಾರೆ. ಇದು ನ್ಯಾಯಾಂಗ ಖಾತೆಯ ಮಂತ್ರಿಗಳಿಗೆ ಸರ್ವಥಾ ನ್ಯಾಯವಾದುದಲ್ಲವೆಂದು ಬಹಳ ವಿಷಾದದಿಂದ ಹೇಳಬೇಕಾಗಿದೆ. ನೀವು ರಾಜ್ಯಾಂಗದತ್ತವಾಗಿ ಒದಗಿಸಿರತಕ್ಕಂಥ ಕಾನೂನು ಕಟ್ಟಲೆಗಳಲ್ಲಿ ಕೈಹಾಕಿ, ಜುಡಿಶಿಯಲ್ ಇನ್‌ಸ್ಟಿಟ್ಯೂಶನ್ನುಗಳಲ್ಲಿ ಹಿತ್ತಲು ಕಡೆಯಿಂದ ಪ್ರವೇಶಿಸಲು ಹೊರಟಿದ್ದೀರಿ. ಮೈಸೂರು ಹೈಕೋರ್ಟಿನ ಕೆಲಸಕಾರ್ಯಗಳು ಸುಸೂತ್ರವಾಗಿ ಶೀಘ್ರವಾಗಿ ನಡೆಯಲು ಆತಂಕವಿದೆ ಎಂಬುದು ಯಾವಾಗ ಅರಿವಾಯಿತ್ತೋ ಗೊತ್ತಾಗಲಿಲ್ಲ ಕಾಂಗ್ರೆಸಿನವರಿಗೆ ಇಂಥ ಒಳ್ಳೆಯ ಕೆಲಸ ಮಾಡಬೇಕೆಂದು ತಲೆ ಬಿಸಿಯಾಗಿ, ಈ ಬಿಲ್ಲನ್ನು ತರಲು ಹೊರಟದ್ದಕ್ಕೆ ನನ್ನ ಮೆಚ್ಚಿಗೆ ತೋರಿಸ ಬೇಕಾಗಿದೆ. ಈ ಕಾನೂನು ಮಾಡುವಾಗ ನಿಮಗೆ ಯಾವುದು, ಅನುಕೂಲ, ಯಾವುದು ಅನಾನುಕೂಲ ಎಂಬುದನ್ನು ನೋಡಿಕೊಂಡಿದ್ದೀರ ? ಈ ಮಸೂದೆಯನ್ನು ಮಾಡುವುದಕ್ಕೆ ನಿಮಗೇನು ಅಧಿಕಾರ ? ಗವರ್ನರವರಿಗೆ ಇರುವ ಅಧಿಕಾರವನ್ನು ತಮ್ಮ ಕೈಗೆ ತೆಗೆದುಕೊಂಡಿದ್ದೀರಿ. ನ್ಯಾಯಾಂಗ ಶಾಸ್ತ್ರವನ್ನು ಕೂಲಂಕಶವಾಗಿ ವಿಮರ್ಶೆ ಮಾಡಿರತಕ್ಕಂಥವರು, ಈ ಬಿಲ್ಲಿಗೆ ನಮ್ಮ ಒಪ್ಪಿಗೆಯನ್ನು ಕೇಳಬಾರದಾಗಿತ್ತು. ನ್ಯಾಯಸ್ಥಾನಗಳಲ್ಲಿ ಕೆಲಸ ಕಾರ್ಯಗಳು ಜಾಗ್ರತೆ ನಡೆದು ನ್ಯಾಯ ಶೀಘ್ರವಾಗಿ ದೊರೆಯಲು ಪ್ರಾವಿಶನ್ ಈಗ ಬೇಕಾಯಿತೇನು ? ಒಂದು ವರ್ಷದಿಂದ, ಮೈಸೂರು ಹೈಕೋರ್ಟಿಗೆ ಇಬ್ಬರು ಜಾಸ್ತಿ ಜಡ್ಜುಗಳನ್ನು ಸೇರಿಸಬೇಕೆಂದು, ಪ್ರಯತ್ನ ನಡೆಯುತ್ತಿದೆ. ಸರ್ಕಾರಕ್ಕೂ ಹೈಕೋರ್ಟಿಗೂ ಮಧ್ಯೆ ಚಿಪ್ಪಣೆ ನಡೆದು, ಇವರುಗಳ ನೇಮಕವಾಗಲಿಲ್ಲ ನಿಮ್ಮಿಬ್ಬರ ಮಧ್ಯೆ ಡಿಸ್ ಅಗ್ರಿಮೆಂಟ್ ಬಂದಿತು. ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರ ಮೇಲೆ ಇಂಡೈರೆಕ್ಟಾಗಿ ಒಂದು ಅಪಾದನೆ ಹೊರಿಸತಕ್ಕಂಥಾದ್ದು ನ್ಯಾಯವಲ್ಲ, ನೀವು, ಸರ್ಕಾರದವರು, ಎರಡು ಹೆಸರುಗಳನ್ನು ಒಪ್ಪಿಕೊಳ್ಳಬೇಕೆಂದು ಹೇಳಿ ಅವರನ್ನು ಕೇಳಿದಿರಿ, ಒಪ್ಪುವುದಕ್ಕಾಗುವುದಿಲ್ಲವೆಂದು ಮೈಸೂರು ಹೈಕೋರ್ಟ್ ನ್ಯಾಯಾಧೀಶರು ಹೇಳಿದರು. ಈ ರತಕ್ಕಂಥ ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರು ರಿಟೈರ್ ಆಗಿ ಮನೆಗೆ ಹೋಗುವ ಕಾಲವನ್ನು ಕಾದಿದ್ದು, ಅವರು ಹೊರಟು ಹೋದಮೇಲೆ ನಿಮಗೆ ಬೇಕಾದ ಎರಡು ಹೆಸರುಗಳನ್ನು ಎರಡು ಜಡ್ಜುಗಳ ಸ್ಥಾನಕ್ಕೆ ಕಳುಹಿಸಬೇಕೆಂದು ಹೊರಟಿದ್ದೀರಿ. ಅಪೇಕ್ಷಸಾಲ, ಈ ಸಭೆಯಲ್ಲಿ ಬಜೆಟ್ ಮೇಲೆ ಮಾತನಾಡುವಾಗ

ಇಂಥಿಂಥ ಕಾರಣಗಳಿಗೋಸ್ಕರ ಜಡ್ಜುಗಳನ್ನು ಅಪಾಯಿಂಟ್ ಮಾಡಿದ್ದೀರಿ, ಸ್ವಂತ ಕಾರಣಗಳಿಗೆ ಮಾಡುವುದು ಸರಿಯಲ್ಲವೆಂದು ಹೇಳಿದ್ದೇವೆ. ನ್ಯಾಯಾಂಗ ಖಾತೆಯ ಮಂತ್ರಿಗಳಾದ ಬಾಳಿಗರವರಿಗೆ ಈ ವಿಷಯ ಗೊತ್ತಿಲ್ಲದೆ ಇಲ್ಲ. ಅವರಿಗೆ ಗೊತ್ತಿದೆ.

ಆದರೆ ಇವೊತ್ತಿನ ದಿನ ಈ ಜವಾಬುದಾರಿ ತೆಗೆದುಕೊಂಡು ಇದು ಸಾಕಾಗುತ್ತದೆ ಎಂದು ಹೇಳುವದಕ್ಕೆ ಸಾಧ್ಯವಿಲ್ಲ ಎತಕ್ಕೆಂದರೆ, ಹೈಕೋರ್ಟಿಗೆ ಎರಡು ಹೆಸರುಗಳನ್ನು ಕೊಟ್ಟು ಅವರನ್ನು ನೇಮಕ ಮಾಡಿಕೊಳ್ಳುವಂತೆ ಚೀಫ್ ಜಸ್ಟೀಸ್‌ರವರ ಮನೆಗೆ ಹೋಗುವುದು, ಚೀಫ್ ಜಸ್ಟೀಸ್‌ರವರು ಚೀಫ್ ಮಿನಿಸ್ಟರ ಮನೆಗೆಬರುವುದು, ಹೀಗೆ ಹೈಕೋರ್ಟಿನ ವಿಚಾರ ವಿನಿಮಯಗಳನ್ನು ಮಾಡಿಕೊಳ್ಳುವುದು, ಹೀಗೆ ಮಾಡುವುದರಿಂದ ಈ ಸರಕಾರಕ್ಕೆ ಬೆಲೆ ಇರುವುದಿಲ್ಲ ಮತ್ತು ಇಲ್ಲೆ ಹಾಕುವ ರಿಟ್ಟು ಎಲೆಕ್ಷನ್ನುಗಳಿಗೆ ನ್ಯಾಯ ದೊರೆಯುವುದಿಲ್ಲ. ಅದಕ್ಕೋಸ್ಕರ ಸಿಂಗಲ್ ಜಡ್ಜು ಎಂದು ಈ ಬಿಲ್ಲಿನಲ್ಲಿ ತೆಗೆದುಕೊಂಡು ಬಂದು ನ್ಯಾಯ ದೊರೆಯಬೇಕು ಎಂದು ಹೇಳುತ್ತಾ, ಈಗಿರತಕ್ಕ ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರ ಮೇಲೆ ಒಂದು ಅಪಾದನೆಯನ್ನು ಹೊರಿಸಿ ಅವರನ್ನು ಇಲ್ಲಿಂದ ಹೊರಕ್ಕೆ ಕಳುಹಿಸಬೇಕು ಎಂದು...

ಶ್ರೀ ಜೆ. ಬಿ. ಮಲ್ಲಾರಾಧ್ಯ.—ಇದು ಸರಿಯಲ್ಲ. ಮಂತ್ರಿಗಳು ಈಗಲೇ ಜವಾಬು ಕೊಡುವುದ ಸೂಕ್ತ.

Sri B. VAIKUNTA BALIGA.—I would like to reply after the debate.

Sri J. B. MALLARADHYA.—No, no. At the appropriate time you will have to correct him.

Sri C. M. ARUMUGHAM.—The Hon'ble Member is making a very important point. The Law Minister should reply now so that it may not be carried again.

Sri B. VAIKUNTA BALIGA.—Several thoughts have been appearing in such profusion which do not come within the ambit of the Bill. what can I do ?

4-00 P.M.

ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ.—ಅಗ್ರ್ಯುಮೆಂಟು ಮಾಡುವುದರಲ್ಲಿ ಶ್ರೀಮಾನ್ ಬಾಳಿಗಾರವರು ಎಷ್ಟು ಬುದ್ಧಿವಂತರೋ ಅಷ್ಟೇ ವಿದ್ಯಾವಂತರೂ ಆಗಿದ್ದಾರೆ. ಅವರು ಬೇಕಾದರೆ ವಕೀಲರಲ್ಲೆ ಬಹಳ ಒಳ್ಳೆಯ ಪದವಿಯನ್ನು ಪಡೆದಂತಹ ಚಾಣಕ್ಯರಂತಹವರು ಎಂದು ನಾನು ತಿಳಿದುಕೊಂಡಿದ್ದೇನೆ. ಅವರು ನ್ಯಾಯಸ್ಥಾನದಲ್ಲಿ ಒಳ್ಳೆಯ ನ್ಯಾಯವಾದಿಗಳಾಗಿರುವಂತೆ ಆಡಳಿತವನ್ನು ನಡೆಸುವುದರಲ್ಲಿಯೂ ಅಷ್ಟೇ ಬುದ್ಧಿವಂತರಾಗಿದ್ದಾರೆ. ಅಂತಹವರು ಈ ದಿನ ಈ ರೀತಿಯಾದ ಬಿಲ್ಲನ್ನು ತರುವುದು ಸರಿಯಲ್ಲ ಎಂದು ಹೇಳಬೇಕಾಗಿದೆ. ತಾವು ಇಬ್ಬರು ಜಡ್ಜುಗಳನ್ನು ಮೈಸೂರು ಹೈಕೋರ್ಟಿನಲ್ಲಿ ನೇಮಕ ಮಾಡದಿದ್ದರೆ, ಇವೊತ್ತಿನ ದಿವಸ ಹೈಕೋರ್ಟಿನಲ್ಲಿ ಯಾವುದೇ ವಿಧವಾದ ರಿಟ್ಟು ಎಲೆಕ್ಷನ್ನುಗಳು ಇಷ್ಟು ಗುರುತರವಾದ ಸಂಖ್ಯೆಯಲ್ಲಿ ಬರುತ್ತಿರಲಿಲ್ಲ ಎಂದು ಹೇಳುತ್ತೇನೆ. ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಇದನ್ನು ಪ್ರತ್ಯಕ್ಷವಾಗಿ ಹೇಳದೇ ಹೋದರು ಪರೋಕ್ಷವಾಗಿ ಮನ ಮುಟ್ಟಿಕೊಂಡು ಒಪ್ಪುತ್ತಾರೆ. ನಾನೀಗಾಗಲೇ ಇದುವರೆಗೆ ಹೇಳಿದ ಮಾತುಗಳನ್ನು ಸರಿಯಾಗಿಲ್ಲ ಎಂದು ಹೇಳಿದರೆ ಆ ಮಾತುಗಳನ್ನು ವಾಪಸ್ಸು ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೂ ತಯಾರಾಗಿದ್ದೇನೆ. ನಾನು 60-61ನೇ ಸಾಲಿನ ಬಡ್ಜೆಟ್ಟಿನಲ್ಲಿ ಮಾತನಾಡುತ್ತಾ ಮಾನ್ಯ ಮುಖ್ಯ ಮಂತ್ರಿಗಳನ್ನು ಹೈಕೋರ್ಟಿಗೆ ಇನ್ನು ಇಬ್ಬರು ಜಡ್ಜುಗಳನ್ನು ಏತಕ್ಕೆ ನೇಮಕ ಮಾಡಲಿಲ್ಲ ಎಂದು ಕೇಳಿದುದಕ್ಕೆ, ಆ ವಿಷಯದಲ್ಲಿ ಪರಿಶೀಲನೆ ಮಾಡುತ್ತಿದ್ದೇವೆ ಎಂದು ಒಂದೇ ಮಾತಿನಲ್ಲಿ ಉತ್ತರ ಕೊಟ್ಟುಬಿಟ್ಟರು. ಈ ಗಬಡ್ಜೆಟ್ಟು ಸೆಷನ್ನು ಆಗಿ ನಾಲ್ಕು ತಿಂಗಳಾದರು ಹಿಂದೆ ಯಾವ ಸ್ಥಿತಿಯಲ್ಲಿತ್ತೋ ಇಂದು ಅದೇ ಸ್ಥಿತಿಯಲ್ಲಿದೆ. ಈ ವ್ಯವಹಾರದಲ್ಲಿ ಹೇಳುವುದಾದರೆ, ಮೈಸೂರು

(ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ)

ಸರಕಾರದವರು ತಾವು ಹೇಳಿದ ಇಬ್ಬರ ಹೆಸರನ್ನು ಇಂಡಿಯಾ ಸರಕಾರದ ಗೃಹ ಶಾಖೆಗೆ ಕಳುಹಿಸಲು ಮೈಸೂರು ಹೈ ಕೋರ್ಟಿನ ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರು ಈ ಸರಕಾರಕ್ಕೆ ತಲೆ ಬಾಗಲೇಬೇಕು ಎಂದು ಇಷ್ಟು ಕಟುವಾಗಿ ತರುವುದು ಸರಿಯಲ್ಲ. ನಿಜವಾಗಿಯೂ ಶ್ರೀಮಾನ್ ಬಾಳಿಗಾರವರು ಇದನ್ನು ಪ್ರತ್ಯಕ್ಷವಾಗಿ ಒಪ್ಪಿ ಕೊಳ್ಳಬೇಕೆಂದು ಕೇಳಿದರೂ ಒಪ್ಪುವುದಿಲ್ಲ. ಪರೋಕ್ಷವಾಗಿ ಕೇಳಿದ್ದರೆ ಸರಕಾದ ಮೇಲೆ ದೋಷಾರೋಪನ ಮಾಡುತ್ತಾರೆಂದು ಹೇಳುವುದಕ್ಕೂ ತಯಾರಾಗಿಲ್ಲ ಇಂತಹುದರಲ್ಲಿ ನ್ಯಾಯ ಖಾತೆಯಲ್ಲಿ ಕೆಲಸ ಮಾಡತಕ್ಕ ಶಕ್ತಿ ಇದೆ ಎಂದು ನಿಮಗೆ ಬೇಕಾದವರನ್ನು ಹೈಕೋರ್ಟಿನಲ್ಲಿ ನೇಮಕ ಮಾಡಿಕೊಳ್ಳಬೇಕೆಂದು ಹೇಳದುದನ್ನು ಮೈಸೂರು ಹೈ ಕೋರ್ಟಿನ ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರು ಒಪ್ಪುವಂತೆ ಮಾಡಿ ಅವರಿಂದ ನ್ಯಾಯ ದೊರಕಿಸಿ ಕೊಡಬೇಕು ಎಂದು ಮಾಡುವುದು ಸರಿಯಲ್ಲ ಎಂದು ತಿಳಿದುಕೊಡು ಅವಕ್ಕೋಸ್ಕರ ಈ ನ್ಯಾಯಾಧೀಶರು ರಿಟೈರು ಆದ ಮೇಲೆ ಈ ಸರಕಾರದ ರೆಕಮೆಂಡೇಷನ್ನನ್ನು ಒಪ್ಪುವಂತೆ ಮಾಡಿ ಇಬ್ಬರು ನ್ಯಾಯಾಧೀಶರುಗಳನ್ನು ನೇಮಕ ಮಾಡಿ ಅವರು ಬರುವುದಕ್ಕೆ ಅನುಕೂಲವಾಗಲಿ ಎಂದು ಹಿಂದೆ ಈ ಬಿಲ್ಲಿನಲ್ಲಿ ಸೆಷನ್ಸು ಏಳರಲ್ಲಿ ಏನೇನೋ ಹೇಳಿದ್ದಾರೆ. ಅಲ್ಲದೆ ತಾವು ರಿಜಿಸ್ಟ್ರಾರವರ ಅಧಿಕಾರಕ್ಕೂ ಕೈ ಹಾಕಿದ್ದಾರೆ ಎಂದು ನಾನು ಹೇಳುತ್ತೇವೆ. ಇವೊತ್ತಿನ ದಿವಸ ಸಿಂಗಲ್ ಜಡ್ಜು ಆಗಿರುವವರು ಒಂದು ರಿಟ್ಟು ಎಜಕ್ಷನ್ನಿನ ಮೇಲೆ ಅಪೀಲು ಬಂದಾಗ ಕ್ಯಾಪಿಟಲ್ ಸೆಂಟೆನ್ಸ್ ಏಳು ವರ್ಷಗಳ ಕಾಲ ಕೊಟ್ಟಿತ್ತು ಎಂದು ತೆಗೆದುಕೊಳ್ಳೋಣ. ಇದರ ಬಗ್ಗೆ ವಾದ ಮಾಡುವ ಲಾಯರುಗಳು Substantial law is involved. Therefore it should go to a Bench. ಎಂದು ಹೇಳುತ್ತಾರೆ. ನ್ಯಾಯ ಶೀಘ್ರವಾಗಿ ದೊರೆಯಬೇಕು ಎಂದು ಹೇಳುತ್ತಾ ಇನ್ನೂ ಮುಂದೆ ಹೋಗಿ It has to go to a Full Bench again. ಎಂದು ಹೇಳುತ್ತಾರೆ. ಹೀಗೆ ಪ್ರೋಸಿಜರಿನ ಒಳಗಡೆ ಒಬ್ಬ ಮನುಷ್ಯನಿಗೆ ಆರು ತಿಂಗಳಿನಲ್ಲಿ ಸಿಗತಕ್ಕ ನ್ಯಾಯವನ್ನು ಮೂರು ವರ್ಷಗಳಾದ ಮೇಲೆ ಸಿಗಬೇಕು ಎಂದು ಮಾಡುವಂತೆ ಈ ಕಾನೂನನ್ನು ತರುವಾಗ ಸ್ಟೇಟು ರೀಆರ್ಗನೈಸೇಷನ್ ಆದ ಮೇಲೆ ಹೈಕೋರ್ಟಿನಲ್ಲಿ ಇಷ್ಟು ಜನ ನ್ಯಾಯಾಧೀಶರುಗಳು ಇಲ್ಲದೇ ಇರುವುದು ಸರಿಯಲ್ಲ ಎಂದು ಈ ಕಾನೂನಿನ ಒಳಗಡೆ ಮಾಡುತ್ತಿರುವುದು ಹೇಗಿದೆ ಎಂದರೆ, ರಾತ್ರಿ ಕಂಡ ಬಾವಿಯಲ್ಲಿ ಹಗಲು ಹುಡುಕಿಕೊಂಡು ಹೋಗುವಂತೆ ಈಗ ಹೋಗುತ್ತಿದ್ದಾರೆ. ಈ ರೀತಿಯಾಗಿ ನ್ಯಾಯ ದೊರೆಯುವ ಪರಿಸ್ಥಿತಿ ಬಂದರೆ ಹೇಗೆ ಎನ್ನುವುದು ನನಗೆ ಗೊತ್ತಾಗುತ್ತಿಲ್ಲ. ಮಾನ್ಯ ಮಂತ್ರಿಗಳಿಗೆ ಇದರಲ್ಲಿ ದೊಡ್ಡ ಕಷ್ಟವಿದೆ, ನ್ಯಾಯ ಸರಿಯಾಗಿ ಸಿಗುತ್ತಿಲ್ಲ ಎನ್ನುವುದೂ ಗೊತ್ತಿದೆ. ಹಾಗಿದ್ದರೂ ಏತಕ್ಕಾಗಿ ಈ ರೀತಿಯಾದ ಕಾನೂನನ್ನು ತಂದರು ಎನ್ನುವುದು ಅರ್ಥವಾಗುತ್ತಿಲ್ಲ. ಅದಕ್ಕೋಸ್ಕರ ಇದರ ಉದ್ದೇಶ ಕಡೆ ಎಷ್ಟೋ ಸಾಧುವಾದುದು ಎಂದು ಇದ್ದರೂ ಇದರ ಹಿಂದೆ ಕಂಡ ಗುರುತರವಾದ ಮತ್ತು ಬಹಳ ಕಠಿಣವಾದ ಮನಸ್ಸು ಸರಕಾರಕ್ಕೆ ಇದೆಯೆಂದು ನನಗಾದರೂ ಅನಿಸುತ್ತದೆ. ಇನ್ನು ಕ್ಲಾಜ್ 5 ರಲ್ಲಿ ಹೀಗೆ ಹೇಳಿದ್ದಾರೆ.

5. First Appeals.—Save as otherwise provided in this Act, all First Appeals, Criminal Appeals and all cases referred to the High Court for confirmation of a sentence of death, shall be heard by a Bench consisting of not less than two judges of the High Court.

Provided that a Criminal Appeal from a judegment in which up sentence of death or imprisonment for life, or imprisonment for a period exceeding seven years is passed againt any accused, who has preferred an appeal, may be heard by a single judge of the High Court.

ಈ ಸೆಕ್ಷನ್ನನ್ನು ಸ್ವಲ್ಪ ಕೂಲಂಕಷವಾಗಿ ಒಳಹೊಕ್ಕು ನೋಡಬೇಕು. ಇಬ್ಬರು ಜಡ್ಜು ಗಳಿರುವ ಒಂದು ಬೆಂಚನ್ನು ತೆಗೆದುಕೊಂಡು ಯಾವುದಾದರೂ ಒಂದು ವಿಷಯ ಬಂದಾಗ ಯಾವ ರೀತಿಯಾದ ಅಭಿಪ್ರಾಯಗಳನ್ನು ಹೊಂದಿರುತ್ತಾರೋ ಅದೇ ರೀತಿಯಾದ ಅಭಿಪ್ರಾಯಾವನ್ನು ಒಬ್ಬರು ಜಡ್ಜು ಇರುವಗ ಹೊಂದಿರುವುದಿಲ್ಲ. ಹೀಗೆ ಒಬ್ಬರು ನ್ಯಾಯಧೀಶರು ಇರಬೇಕೆಂದು ಈ ರೀತಿಯಾದ Back door Method ನಿಂದ ತರುವಂತಹ ಕಾನೂನನ್ನು ತರುವುದು ಬೇಡ ಎಂದು ಹೇಳುತ್ತಿದ್ದೇನೆ. ಈ ವಿಚಾರದಲ್ಲಿ ಈಗಾಗಲೇ ಶ್ರೀಮಾನ್ ಮಲ್ಲಾರಾಧ್ಯರವರು ಬಹಳ ಚೆನ್ನಾಗಿ ಹೇಳಿದ್ದಾರೆ. ಅವರು ನ್ಯಾಯವಾಗಿ ಹೇಳಿದುದನ್ನೇ ನಾನು ಸ್ವಲ್ಪ Blunt ಕಠಿಣ ವಾಗಿ ಹೇಳುತ್ತಿದ್ದೇನೆ ಅಷ್ಟೇ ಇದರಿಂದ ಏನು ಬೇಕಾದರೂ ಮಾಡವುದಕ್ಕೆ ಸಾಧ್ಯ ಯಾದಾಗಲೂ ಸರ್ಕಾರ ಒಂದು ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರ ಮೇಲೆ ಇಲ್ಲದ ಸಲ್ಲದ ಅಪಾದನೆಯನ್ನು ಹಚ್ಚಿ ಸರ್ಕಾರದವರು ಏನು ಬೇಕಾದರೂ ಮಾಡುತ್ತಾರೆ ಎನ್ನುವುದನ್ನು ಹೇಳುವುದಕ್ಕೆ ಇಲ್ಲ ಸಾಕಷ್ಟು ಅವಕಾಶವಿದೆ ಎಂದು ನಾನು ತಿಳಿದುಕೊಳ್ಳುತ್ತೇನೆ. ಆದಕ್ಕೋಸ್ಕರ ಇಂತಹ ಒಂದು ಗುರುತರವಾದ ಜವಾಬ್ದಾರಿ ಹೊತ್ತಿರತಕ್ಕ ಹೈಕೋರ್ಟಿನಮೇಲೆ ಅಧಿಕಾರ ನೀವು ಮಾಡು ವುದಕ್ಕೆ ಬದಲು ಅವರಿಗೇ ಬಿಡಬೇಕು. ನೀವು ಕಾನೂನು ಮಾಡುವುದಕ್ಕೆ ಲೆಜಿಸ್ಲೇಚರಿಗೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೀರಿ. ಅಂದಮೇಲೆ ಎಷ್ಟೇ ಚೆನ್ನಾಗಿ ನ್ಯಾಯ ಮಾಡಬೇಕು ಎಂಬುದಾಗಿ ಬೇರೆ ಕಾನೂನಿನಲ್ಲಿ ಹೇಳುತ್ತೀರಿ, ಇಬ್ಬರು ಕೂತುಕೊಂಡು ನ್ಯಾಯ ತೀರ್ಮಾನ ಮಾಡುತ್ತಿರುವಾಗ ನ್ಯಾಯಕ್ಕೆ ಏನು ತೊಂದರೆಯಿದೆ ? ನೀವು ಇವತ್ತಿನ ದಿವಸ ಒಂದು ಆರ್ಡರ್ ಮಾಡುತ್ತೀರಿ ಅದು ಕೇಲವರ ಮನಸ್ಸಿಗೆ ಸರಿಹೊಗದೆ ಅವರಿಗೆ ವಿರೋಧವಾಗಿದ್ದ ಪಕ್ಷದಲ್ಲಿ, ಯಾರೇ ಆಗಲಿ ಅವರ ಒಂದು ಫಂಡಮೆಂಟಲ್ ರೈಟಿಗೆ ಚ್ಯುತಿ ತರುವಂತಾದ್ದಾಗಿದ್ದರೆ ಕೂಡಲೇ ಅವರು ಸರ್ಕಾರದ ಮೇಲೆ ರಿಟ್ ಪೆಟಿಷನ್ನುಗಳನ್ನು ಕೋರ್ಟಿನಲ್ಲಿ ಹಾಕುತ್ತಾರೆ. ಯಾವಾಗಲೂ ಸರ್ಕಾರ ತಾನು ಮಾಡುವ ಕೆಲಸವನ್ನು ಕಾನೂನು ಬದ್ಧವಾಗಿ, ಸುಲಲಿತವಾಗಿ, ಕಟ್ಟಳೆಗನುಸರಿಸಿ ನ್ಯಾಯ ಬದ್ಧವಾಗಿ ಮಾಡಿದರೆ ನಿಜವಾಗಿ ಹೈಕೋರ್ಟಿನ ಕೆಲಸ ಕಡಮೆಯಾದೀತು ಎಂದು ನಾನು ಅಭಿಪ್ರಾಯಪಡು ತ್ತೇನೆ.ಅದಕ್ಕೋಸ್ಕರವೇ ಸೆಕೆಂಡ್ ಅಪೀಲ್ಸ್, ಕ್ರಿಮಿನಲ್ ಅಪೀಲ್ಸ್ ಒರಿಜಿನಲ್ ಸೂಟ್‌ಗಳಲ್ಲಿ ಬರುವುದು ಇದು ಬಹಳ ಅಪರಾಧ. ಅನೇಕ ಮೊಕದ್ದಮೆಗಳು ಇದೇ ರೀತಿ ಸಿವಿಲ್ ಕೋರ್ಟ್‌ನಿಂದ ಹೈಕೋರ್ಟಿಗೆ ಬರುತ್ತವೆ. ಇವತ್ತಿನ ದಿವಸ ಹೈಕೋರ್ಟಿನ ಮುಂದೆ ಇರತಕ್ಕ ಹೆಚ್ಚಿಗೆ ಕೆಲಸ ರಿಟ್‌ಪೆಟಿಷನ್ಸ್‌ಗೆ ಸಂಬಂಧ ಪಟ್ಟಿದ್ದೇ ಜಾಸ್ತಿ, ಇದಕ್ಕೆ ಕಾರಣರು ಸರ್ಕಾರವೇ ಹೈಕೋರ್ಟಿನಲ್ಲಿ ಇಷ್ಟು ಹೆಚ್ಚಿಗೆ ಕೆಲಸವಾಗಿರುವುದು ಜನಗಳಿಂದಲ್ಲ ಅಥವಾ ಇನ್ನು ಯಾರಿಂದಲಾದರೂ ಅಲ್ಲ. ಸರ್ಕಾರದಿಂದಲೇ ಎಂದು ನಾನು ಖಂಡಿತವಾಗಿ ಹೇಳಬಹುದು ಸರ್ಕಾರ ಇದನ್ನು ಕೂಲಂಕುಶವಾಗಿ ಯೋಚನೆ ಮಾಡಬೇಕು. ಇಬ್ಬರು ಜಡ್ಜ್‌ಗಳು ಕೂತುಕೊಂಡು ತೀರ್ಮಾನ ತೆಗೆದು ಕೊಳ್ಳುವುದೇ ಸರಿಯಾದ ಮಾರ್ಗ, ಆಗ ಸರಿಯಾದ ನ್ಯಾಯವೂ ಸಹ ದೊರಕುತ್ತದೆ. ಅದಕ್ಕೋಸ್ಕರವೇ ಕ್ಲೈಂಟ್ಸ್‌ಗೆ ಹೆಚ್ಚು ಹಣ ಖರ್ಚಾಗಿ ವಕೀಲರ ಜೋಬು ತುಂಬುತ್ತದೆ. ಕ್ಲೈಂಟ್ಸ್‌ಗೂ ಸಹ ತಮ್ಮ ಕೇಸುಗಳ ತೀರ್ಮಾನಕ್ಕೆ ಬಹಳದಿನಗಳವರೆಗೂ ಕಾಯಬೇಕಾದ ಪರಿಸ್ಥಿತಿಬರುತ್ತದೆ. ಅವರು ರಿಲೀಫಿಗೂ ಬಹಳ ದಿನಗಳವರೆಗೂ ಕಾಯಬೇಕಾ ಗುತ್ತದೆ.ಶ್ರೀಮಾನ್ ವೈಕುಂಠ ಬಾಳಿಗಾರವರು ನ್ಯಾಯ ಶಾಸ್ತ್ರವನ್ನು ಚೆನ್ನಾಗಿ ಅರಿತಿರತಕ್ಕವರು ಮತ್ತು ಇದರ ಇಂಗಿತವನ್ನು ಬಹು ಚೆನ್ನಾಗಿ ತಿಳಿದಿರತಕ್ಕವರು. ಅಂತಹವರೇ ಇಂತಹ ವಾಮನ ಮಾರ್ಗಕ್ಕೆ ಕೈ ಹಚ್ಚಬಾರದು. ಆದ್ದರಿಂದ ಸಿಂಗಲ್ ಜಡ್ಜ್ ಎಂಬುದನ್ನು ಈ ಮಸೂದೆಯಿಂದ ತೆಗೆದು ಈಗಿರುವ ಪ್ರಕಾರವೇ ಮುಂದುವರಿಸುವುದಕ್ಕೆ ಸರ್ಕಾರದವರು ಮನಸ್ಸು ಮಾಡ ಬೇಕು. ಇಲ್ಲದೇ ಹೋದರೆ ಇದರಿಂದ ಬಹಳ ತೊಂದರೆಯಾಗುತ್ತದೆ. ಏಕೆಂದರೆ ಇನ್ನೆಂಟು ತಿಂಗಳುಗಳಾದ ಮೇಲೆ ಅವರೇ ತಿರುಗಿ ಲಾಯರ್ ಆಗಬೇಕಾದ ಪರಿಸ್ಥಿತಿ ಬರುತ್ತದೆ ಆಗ ಅವರೇ ಇಂತಹ ಕ್ಲಾಜುಗಳ ಬಗ್ಗೆ ಹೆಚ್ಚಿನ ವಿಮರ್ಶೆ ಮಾಡಬೇಕಾಗಿ ಬರುತ್ತದೆ.

ಒಬ್ಬ ಸದಸ್ಯರು.— ಅವರು ಈಗಿರುವ ಹಾಗೆ ಮಂತ್ರಿಗಳು ಏಕೆ ಆಗಬಾರದು ? ಒಂದು ವೇಳೆ ಮುಖ್ಯ ಮಂತ್ರಿಗಳೇ ಆಗಬಹುದು.

ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ.—ಅವರನ್ನು ಮುಖ್ಯ ಮಂತ್ರಿಗಳಾಗಿ ಮಾಡುವ ಭಾಗ್ಯಾನವಾಗಿದ್ದರೆ ನಾನು ಅವರಿಗೆ ಪೂರ್ಣ ಸಹಾಯ ಮಾಡಲು ತಯಾರಾಗಿದ್ದೇನೆ. ಆದರೆ ಅವರು ಮಾತ್ರ ಮುಖ್ಯ ಮಂತ್ರಿಗಳಾಗಬಾರದು ಎಂಬುದೇ ನನ್ನ ಅಭಿಪ್ರಾಯ. ಅದು ಬೇರೆ ವಿಷಯ.

ಅದಕ್ಕೋಸ್ಕರವಾಗಿ ಈಗ ಸುಮ್ಮನೆ ಆಕಾಶದಲ್ಲಿ ಅರಮನೆ ಕಟ್ಟುವುದು ಬೇಡ. ಇದರಲ್ಲಿನ ಕ್ಲಾಜುಗಳನ್ನು ವಸ್ತುತಃ ಸರ್ಕಾರದವರು ಪುನಃ ಯೋಚನೆ ಮಾಡಬೇಕೆಂದು ನಾನು ಹೇಳುತ್ತೇನೆ. ಕಾನೂನು ಮಂತ್ರಿಗಳಲ್ಲಿ ಈ ಬಗ್ಗೆ ಬಹಳ ವಿನಯದಿಂದ ಪ್ರಾರ್ಥನೆ ಮಾಡಿಕೊಳ್ಳುತ್ತೇನೆ.

ಈ ಮಸೂದೆಯು ಕ್ಲಾಜು 11ರಲ್ಲಿ ಈ ರೀತಿ ಹೇಳಿದೆ. The High Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court and shall forward to the State Government such copies of, or extracts from, the said registers, books and acconnts. ಇವರಿಗೆ ಯಾವ ಕಾನೂನು ಕೆಳಗೆ, ಯಾವ ರಾಜ್ಯಾಂಗದ ಆರ್ಟಿಕಲ್ ಕೆಳಗೆ ಈ ಅಧಿಕಾರ ಬಂದಿದೆ ? ಇದಕ್ಕಾಗಿ ನೀವು ಎಷ್ಟು ಹಣವನ್ನು ಖರ್ಚು ಮಾಡಿದ್ದೀರಿ. ಜಡ್ಜುಗಳು ಈ ರೀತಿ ಮಾಡಿದ್ದಾರೆ, ಇವರಿಂದ ಸರಿಯಾದ ನ್ಯಾಯ ದೊರೆಯುತ್ತಿಲ್ಲ. ಇಂತಿಂಥ ತೊಂದರೆಗಳು ಆಗುತ್ತಿವೆ ಎಂದು ಏನಾದರೂ ದೂರುಗಳು ತಮಗೇನಾದರೂ ಬಂದಿದ್ದರೆ ಆಗ ನೀವು ಸ್ವಲ್ಪ ವಿಚಾರಣೆ ಮಾಡಬಹುದು. ಯಾವ ಸರ್ಕಾರವೇ ಆಗಲೀ ಜನತೆಗೆ ಅಹಿತವಾದ ಕಾನೂನುಗಳನ್ನು ಮಾಡುತ್ತಾ ಹೋದರೆ ಅಂತಹ ಸರ್ಕಾರವನ್ನು ಟೀಕೆ ಮಾಡುವುದಕ್ಕೆ ಹೈಕೋರ್ಟಿನವರಿಗೆ ಸಾಕಷ್ಟು ಅವಕಾಶ ಕೊಡಿ. ಇಲ್ಲದಿದ್ದರೆ ಅವರ ಲೆಖ್ಖ ಪತ್ರಗಳನು ಏತಕ್ಕೆ ಕೇಳುತ್ತೀರಾ ? ಇವತ್ತಿನ ದಿವಸ ಮೈಸೂರು ಹೈಕೋರ್ಟಿನಲ್ಲಿ ಲೆಖ್ಖಪತ್ರಗಳನ್ನು ಇಡದೆಯೇ ಅವರಿಂದ ಹಣ ಖರ್ಚಾಗುತ್ತಿದೆಯೇ ? ಸ್ಟ್ಯಾಂಪ್, ಇತ್ಯಾದಿ ಲೆಖ್ಖ ಪತ್ರಗಳೆಲ್ಲಾ ಇಲ್ಲವೇ ? ಸಿವಿಲ್ ಮತ್ತು ಕ್ರಿಮಿನಲ್ ಕೇಸುಗಳ ಲೆಖ್ಖವೆಲ್ಲವನ್ನು ಸರಿಯಾಗಿ ಇಟ್ಟಿರುವುದಿಲ್ಲವೆ ? ಆದ್ದರಿಂದ ಇಂತಹ ಸಂದರ್ಭದಲ್ಲಿ ಸರ್ಕಾರದವರು ಹೈಕೋರ್ಟಿನ ಲೆಖ್ಖ ಪತ್ರಗಳನ್ನು ಕೇಳುವ ಉದ್ದೇಶವೇನು ? ಸರ್ಕಾರದ ಉದ್ದೇಶವೇನಾದರೂ ಈ ಸ್ಟೇಟ್‌ಮೆಂಟ್ಸ್ ಅಂಡ್ ಅಬ್ಸ್ಟ್ರಾಕ್ಟ್ಸ್ ಎಂಬುದರಲ್ಲಿ ಇದೆಯೇ ? ಏತಕ್ಕೋಸ್ಕರ ಅದರ ಲೆಖ್ಖ ಪತ್ರಗಳನ್ನು ಕೇಳಬೇಕೆಂಬುದನ್ನು ಅದರಲ್ಲಿ ಹೇಳಿದ್ದಾರೆಯೇ ? ಇಂಥಾದ್ದರಲ್ಲಿ ಸಿಂಗಲ್ ಜಡ್ಜು ಮಾಡಬೇಕೆಂದು ಹೇಳುವುದಕ್ಕೆ ಇವರ ಉದ್ದೇಶವೇನು ? ಮುಖ್ಯವಾಗಿ ನಿಮಗೆ ಹೈಕೋರ್ಟಿನ ಮೇಲೆ ಕೈ ಹಾಕುವುದಕ್ಕೆ ಅಧಿಕಾರವಿಲ್ಲ. ಈ ಅಧಿಕಾರ ರಾಷ್ಟ್ರಾಧ್ಯಕ್ಷರೊಬ್ಬರಿಗೆ ಮಾತ್ರವಿರುವಾಗ ನೀವು ಯಾವ ಕಾರಣವನ್ನು ಈಗ ತೋರಿಸಿ ಷೆಲ್ಟರ್ ತೆಗೆದುಕೊಳ್ಳುತ್ತೀರಿ ? ನನಗೆ ಈ ಬಗ್ಗೆ ಸ್ವಲ್ಪ ಅಪ್ಪಣೆ ಕೊಡಿಸಬೇಕು ಎಂಬುದಾಗಿ ನಾನು ಕಾನೂನು ಮಂತ್ರಿಗಳನ್ನು ಕೇಳುತ್ತೇನೆ. ಈಗ ಅವರನ್ನು ಲೆಖ್ಖ ಪತ್ರ ಕೇಳುವುದು, ಡೆಪ್ಯೂಟಿ ರಿಜಿಸ್ಟ್ರಾರ್ ಅವರನ್ನು ನೇಮಕ ಮಾಡುವುದು, ಸಿಂಗಲ್ ಜಡ್ಜು ಅವರಿಗೆ ಅಧಿಕಾರವನ್ನು ಡಿಟರ್‌ಮಿನ್ ಮಾಡುವುದು-ಇದನ್ನೆಲ್ಲಾ ನೋಡಿದರೆ ನೀವು ಈ ದೇಶದಲ್ಲಿ ಯಾವ ರೀತಿಯಲ್ಲೂ ಸುರಕ್ಷಿತವಾಗಿ ನಡೆಯುವುದಕ್ಕೆ ಅವಕಾಶವಿಲ್ಲವಲ್ಲಾವೆಂದು ನನಗೆ ಘಾಬರಿಯಾಗಿದೆ. ಆದರೆ ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಜಡ್ಜು, ಸಿವಿಲ್ ಜಡ್ಜು ಇವರನ್ನು ನೇಮಿಸುವವರು ನೀವು. ಹೈಕೋರ್ಟಿನ ಚೀಫ್ ಜಸ್ಟೀಸ್ ಅವರನ್ನು ನೇಮಕ ಮಾಡುವವರು ನೀವಲ್ಲ. ನೀವೇನಾದರೂ ಆ ಬಗ್ಗೆ ಶಿಫಾರ್ಸು ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶವನ್ನು ಹೊಂದಿರಬಹುದು. ಅಂಥಾದ್ದರಲ್ಲಿ ಈ ಕಾನೂನು ಕೆಳಗೆ ಈಗ ಸರ್ಕಾರದವರು ತಮ್ಮ ಅಧಿಕಾರವನ್ನು ಉಪಯೋಗಿಸುತ್ತೇವೆಂದು ಹೊರಟರೆ ದೇಶದಲ್ಲಿ ಯಾವ ಪ್ರಜೆ ಅಥವಾ ನಾಗರೀಕನ ಹಕ್ಕು ಭಾಧ್ಯತೆ ನಿಜವಾಗಿ ಸರಿಯಾಗಿರುತ್ತದೆಯೇ ಎಂಬುದನ್ನು ಸರ್ಕಾರದವರು ಅರ್ಥಮಾಡಿ ಕೊಳ್ಳಬೇಕು. ಶ್ರೀಮಾನ್ ಮಲ್ಲಾರಾಧ್ಯರು ಮೈಸೂರು ಹೈಕೋರ್ಟ್ ಇಡಿ ಹಿಂದೂಸ್ಥಾನದಲ್ಲೆಲ್ಲಾ ನ್ಯಾಯವನ್ನು ಜನತೆಗೆ ದೊರಕಿಸುವುದರಲ್ಲಿ ಹೆಚ್ಚಿನ ಸ್ಥಾನವನ್ನು

ಪಡೆದಿದೆ ಎಂದು ಹೇಳಿದ್ದಾರೆ. ಆ ರೀತಿ ಹೇಳುವವರಲ್ಲಿ ನಾನೂ ಒಬ್ಬ. ನಿಜವಾಗಿ ಇಡೀ ಹಿಂದೂಸ್ಥಾನದಲ್ಲಿ ಮೈಸೂರು ಹೈಕೋರ್ಟ್ ವಿಷಯವಾಗಿ ಹೆಚ್ಚಿನ ಗೌರವ ಇದೆ. ಹೆಚ್ಚಿನ ಸ್ಥಾನಮಾನವನ್ನು ಗಳಿಸಿರತಕ್ಕ ಕೋರ್ಟು ಆಗಿದೆಯೆಂದು ಧಾರಾಳವಾಗಿ ಹೇಳಬಹುದು. ಇನ್ನು ಯಾವ ದೇಶದ ಹೈಕೋರ್ಟಿಗೂ ಹಿಂದೆ ಬಿದ್ದಿಲ್ಲವೆಂದು ನಾನು ಹೇಳುತ್ತೇನೆ. ಅಂದಮೇಲೆ ಈಗ ಕೇವಲ ನಾಲ್ಕು ಪುಟಗಳನ್ನುಳ್ಳ ಈ ವಿಧೇಯಕವನ್ನು ನಮ್ಮ ಮುಂದಿಟ್ಟು ಸರ್ಕಾರದವರು ಈ ಸಂದರ್ಭದಲ್ಲಿಯೇ ತಮ್ಮ ಅಧಿಕಾರವನ್ನು ಹೈಕೋರ್ಟಿನವರ ಮೇಲೆ ಚಲಾಯಿಸಬೇಕು. ಎಂಬುದಾಗಿ ಹೊರಟಿರುವ ಈ ಸರ್ಕಾರದ ದುರುದ್ದೇಶ ಏನೆಂಬುದಾಗಿ ನನಗೆ ಅರ್ಥವಾಗಲಿಲ್ಲ. ಆದ್ದರಿಂದ ಇದನ್ನು ಸರ್ಕಾರದವರು ಸುದೀರ್ಘನಾಗಿ ಯೋಚನೆ ಮಾಡಬೇಕು. ಕಾಂಗ್ರೆಸ್ಸಿನಲ್ಲಿ ತಮ್ಮ ಅಧಿಕಾರ ಇರುವ ಹಾಗೆಯೇ ಇರಲಿ ಎಂದು ನೀವು ಹೇಳುವಾಗ ಹೈಕೋರ್ಟಿನ ಅಧಿಕಾರವನ್ನು ಹೈಕೋರ್ಟಿಗೇ ಬಿಡಿ. ಅವರಿನ್ನು ಚೆನ್ನಾಗಿ ಕೆಲಸ ಮಾಡುತ್ತಾರೆ. ಇಬ್ಬರು ಜಡ್ಜುಗಳು ಕೂತು ನ್ಯಾಯವಾಗಿ ಒಂದು ಫೈನಲ್ ಡಿಸಿಷನ್‌ಗೆ ಬರುವಂತಹ ಕೆಲಸಗಳನ್ನು ನೀವು ಖಂಡಿತವಾಗಿ ಒಪ್ಪಿಕೊಳ್ಳಿ. ಈ ರೀತಿ ಮಾಡಿದರೆ ಅವರಲ್ಲಿ ಯಾವುದೂ ಅರಿಯರ್ಸ್ ಇರುವುದಿಲ್ಲ. ನಾನು ನೋಡಿದ ಹಾಗೆ ಈಗಿನ ಪ್ರಕಾರವೇ ಮುಂದುವರಿಯುವುದರಿಂದ ಅಲ್ಲಿನ ಕೆಲಸಗಳು ಚೆನ್ನಾಗಿ ಸಮರ್ಪಕವಾಗಿ ನ್ಯಾಯರೀತಿಯಿಂದ ನಡೆಯುತ್ತಿವೆ. ಯಾವುದೂ ಅರಿಯರ್ಸ್ ಇಲ್ಲ. ಅಪ್–ಟು–ಡೇಟ್ ಇದ್ದಾರೆಂದು ನಾನು ಹೇಳುತ್ತೇನೆ. ಇಂಥಾದ್ದರಲ್ಲಿ ಹೈಕೋರ್ಟಿನ ಮೇಲೆ ಸರ್ಕಾರದವರು ಅಪಾಯಿಂಟ್‌ಮೆಂಟ್‌ಗಳ ಬಗ್ಗೆ ಕೈ ಹಾಕಿ ತಮ್ಮ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಬೇಕೆಂದು ಅದರಲ್ಲೂ ಶ್ರೀಮಾನ್ ವೈಕುಂಠ ಬಾಳಿಗಾ ಅವರು ಹೊರಟಿರುವುದು ಅಷ್ಟಾಗಿ ಸಾಧ್ಯವಾದುದಲ್ಲ. ಇನ್ನೆಂಟು ತಿಂಗಳ ಅವಧಿಯಲ್ಲಿ ದೇವರು ಅವರಿಗೆ ಒಳ್ಳೆಯದನ್ನು ಮಾಡಲ. ಆದ್ದರಿಂದ ಈ ವಿಧೇಯಕವನ್ನು ಕೊಡಲೇ ವಾಪಸು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ನಾನು ಅವರಲ್ಲಿ ಅಪೀಲು ಮಾಡುತ್ತಿದ್ದೇನೆ. ಅವರಂತೂ ಚುನಾವಣೆಗೆ ನಿಲ್ಲುವುದಿಲ್ಲವೆಂದು ನನಗೆ ಭರವಸೆ ಇದೆ. ಶ್ರೀಮಾನ್ ವೈಕುಂಠ ಬಾಳಿಗಾ ಅವರೂ ಸಹ ಆರೀತಿ ಹೊಗಲಾರರು (ನಗು) ಒಂದು ಪಕ್ಷ ಅವರು ಚುನಾವಣೆಗೆ ನಿಂತುಕೊಂಡರೆ ನಾನೇನು ಮಾಡಲಿ. ಅದಕ್ಕೋಸ್ಕರ ಈ ವಿಧೆಯಕ ಈಗೇನು ಅಷ್ಟಾಗಿ ಅವಸರ ಕಾಣುತ್ತಿಲ್ಲ. ಆದ್ದರಿಂದ ಈಗಿರುವ ರೀತಿಯಲ್ಲಿ ಮತ್ತು ಈಗ ನಡೆಯುತ್ತಿರತಕ್ಕ ರೀತಿಯಲ್ಲಿ ಹೈಕೋರ್ಟಿನ ಕೆಲಸ ಕಾರ್ಯಗಳು ಇನ್ನೂ ಯಶಸ್ವಿಯಾಗಿ ನಡೆಯಲು ತಕ್ಕ ಅವಕಾಶವನ್ನು ಸರ್ಕಾರದವರು ಕಲ್ಪಿಸಿ ಕೊಟ್ಟು ಇನ್ನು ಇಬ್ಬರು ಜಡ್ಜುಗಳನ್ನು ಕೊಡಲೇ ನೇಮಕ ಮಾಡುವುದಕ್ಕೆ ಪ್ರಯತ್ನ ಮಾಡಬೇಕು. ಮೈಸೂರು ಹೈಕೋರ್ಟಿನ ಸಲಹೆಯ ಮೇರೆಗೆ ಇಬ್ಬರು ಜಡ್ಜುಗಳು ಈಗ ಹೆಚ್ಚಿಗೆ ನೇಮಕವಾದರೆ ಮೈಸೂರು ಸರ್ಕಾರಕ್ಕೂ ಹೈಕೋರ್ಟಿಗೂ ಹೆಚ್ಚಿನ ಕೀರ್ತಿವುಂಟಾಗುತ್ತದೆ, ಜನಗಳಿಗೂ ಸರಿಯಾದ ನ್ಯಾಯವೂ ದೊರಕುತ್ತದೆಂಬುದಾಗಿ ನಾನು ಕಾನೂನು ಮಂತ್ರಿಗಳನ್ನು ಮತ್ತೊಮ್ಮೆ ವಿನಯದಿಂದ ಪಾರ್ಥಿಸಿಕೊಳ್ಳುತ್ತೇನೆ. ಇಂತಹ ಸಂದರ್ಭದಲ್ಲಿ ನಮ್ಮನ್ನು ಈ ಬಿಲ್ಲಿಗೆ ಹಸ್ತು ಎನ್ನಬೇಕೆಂದು ನಮ್ಮನ್ನು ಕೇಳಿ ದಯಮಾಡಿ ಈ ವಿಧೇಯಕವನ್ನು ಪಾಸ್ ಮಾಡಿ ಎಂದು ನಮಗೆ ಹೇಳುವುದು ಸರಿಯಿಲ್ಲ. ಈಗ ಈ ಬಿಲ್ ಪಾಸ್ ಮಾಡಿದಮೇಲೆ ಮಂತ್ರಿಗಳೇ ಅವರ ಪಕ್ಷದ ಪರವಾಗಿ ಇದಕ್ಕೆ ತಿದ್ದುಪಡಿಯನ್ನು ತರಬೇಕೆಂದು ಹೊರಟಿದ್ದಾರೆ. ನಮ್ಮ ಕೈಲಿ ಹಸ್ತು ಎಂದೆನಿಸಿ ಕೊಂಡ ಮೇಲೆ ಜನತೆಗೆ ಯಾವ ರೀತಿಯಲ್ಲೂ ತೊಂದರೆಯಾಗಬಾರದು. ನಾವೂ ನೀವೂ ಸಹ ಯಾವ ತೊಂದರೆಗೂ ಈಡಾಗಬಾರದು. ಅಂತಹ ರೂಪದಲ್ಲಿ ಈ ಮಸೂದೆಯ ಕ್ಲಾಜುಗಳು ರಚನೆಯಾಗಬೇಕೆಂದು ಹೇಳಿ ನನ್ನ ಮಾತನ್ನು ಮುಗಿಸುತ್ತೇನೆ.

†Sri V. S. Patil (Belgaum I).—Sir, I practically agree with the remarks made by the Leader of the Opposition when he spoke on the merits and demerits of the Bill. I would like to add a few words to what he has already stated Sir, this is an Act under which we are

(Sri V. S. Patil)

trying to regulate the procedure of our High Court. The Title of this Bill is "The Mysore High Court Bill, 1959" and we are passing it in 1961. So, I should like to request the Hon'ble Minister in charge of the Bill to amend this, as otherwise, it would mean that this was enacted in 1959. Then, there is already an Act of the same name-The Mysore High Court Act of 1884. So, there would be conflict of Titles and may create some kind of confusion in the minds of the people. Unless it is repealed, there should be only one Act of that name. In subject and substance the present Bill is only an amending one to the old Act. This cannot be styled an independent Act. So, I suggest that this should not be styled as the High Court Act. The Hon'ble Minister may kindly look into this matter, even though it is technical.

Then, Sir, certain sections of the Mysore High Court Act, 1884 are repealed by passing this Bill. In the old Act, Chief Justice has been defined and it has been kept in tact and a new definition has been added in the present Bill. There is a definition for the Full Bench in the old Act and the new Bill. Without repealing those sections, how can we enact new clauses here ? I feel that persons who drafted this Bill have not studied the old Act at all. Otherwise, which definition should b followed ?

Then, Sir, clause 6 is :

> "All second Appeals shall be heard and disposed of by a single Judge of the High Court :
>
> Provided that, if such Judge is satisfied that a substantial question of law is involved in the case, or that in the interest of justice, the case is to be heard and disposed of by a Bench of Judges, he may refer the Second Appeal for hearing and disposal to such Bench."

Sir, the Hon'ble Minister for Law is an efficient and lawyer, who has practised for many years. He knows that a Second Appeal cannot be admitted unless there is a question of law or the interest of justice involved. Unless these points are raised, it cannot be admitted at all, apart from hearing. That is why, the proviso which is mentioned here, clearly shows that the second appeal involves the question of law and also the interest of justice. So, second appeals should not be allowed to be heard by a single judge. Sir, we have come across such instances during our practice. If these matters are handed over to a single judge and if the time of the client is bad, these things are disposed of like ordinary cases. A single judge is also a human being and has troubles of family and that may come to the throat of the client. So, after the second appeal is admitted, it must be heard by a Bench of Judges.

4-30 P. M.

Sir, I cannot appreciate the idea of sub-clause (2) of clause 8 :

"(2) The decission or order of a single Judge in cases under sub-section (1) shall be final."

This appears to be rather dangerous; because if the gates of justice are closed down on the client, I do not think there is any hope. Why should the decision of a single-judge be final ? We have not said even that the decisions of the Benches are final, So, that a single judge decision should be final, is not reasonable.

Sri B. VAIKUNTA BALIGA.— In clause 8 it is only civil and criminal revision cases. Should there be a revision of revision cases ?

Sri V. S. PATIL.—My point is, why should it be a single judge. That is my point.

Sir, according to the old Act clause 18—this is a power which is retained in the old regime of His Highness cannot and need not be retained by this Govt. This Government is quite different from the sovereign power of that Government.

Sri B. VAIKUNTA BALIGA.—Do you want the State Government to interfere with it ? Which is the Government competent to interfere with that portion of the old Act.

Sri V. S. PATIL.—I should like to know why this power of administration and distributing work among the various judges and benches which is given to the Chief Justice, should be withdrawn. Is it the intention of this Government to withdraw that power ? That will be an absurd thing. The Chief Justice must be entitled to distribute the work according to his own convenience. Why should the Government try to interfere with that work. I should like to suggest, that clause 18 of the old Act must be one of the sections that should be repealed and it should not survive.

Sir, section 20 has been proposed to be repealed. That is the rule-making power of the High Court. Why that power has to be withdrawn from the High Court, I do not understand. The High Court must frame rules for the smooth working of the High Court and subordinate courts. Why it should be deprived of the rule making power by this Government. Is there any provision here to frame rules for the working of this Act ? That will create tremondous difficulties in the actual working, because in every Act, there is the rule making power given to the higher authority. But in this legislation, we are withdrawing the power from the High Court. The High Court has already framed rules and the work of the high Court is guided by these rules. By this provision, we are withdrawing this power and thereby we cancel these rules. That will definitely come in the way of smooth working of the High Court and I should like to suggest to the Hon'ble Minister in charge of the Bill to delete section 20 from clause 14 of the Bill.

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Even though the Bill was drafted in 1959, the Hon'ble Minister for Law has not studied it carefully. Otherwise he would not have allowed those glaring mistakes to remain in the Bill.

With there few words, I thank you for giving me a chance.

†Sri M. C. NARASIMHAN (K.G.F.)–Sir, there are two views expressed on some of the provisions of the Bill namely, one aspect of the matter is, at to whether it should be tried by a single judge or two judges. My position is this. Here the system is for both—single judge and two judges to try separate types of suits. As referred to by my friend Sri Mallaradhya the Hon'ble Leader of the Opposition, if we had followed that practice from the beginning, it would have been quite a different thing. Today the system is not found here. The practice appears to be throughout India that there will be provision for both single judges and appeal from the single judge's decision to a bench of two judges. That appears to be the system. When this is the system, what is best for Mysore is the question that we have to consider. How best to secure speedy justice and speedy disposal of cases is a thing which should engage the attention of one and all. As far as I know in this country adequate attention has been given to this particular aspect and it is for us to examine in the light of the eport of the Law Commission and other literature available how far this matter has been tackled and how far this question is being tackled through the instrumentality of this Bill. We have to bear in mind that my friend must have drafted the Bill in consultation with the High Court and I presume that the High Court has given a sort of approval in respect of this Bill. We have therefore to have certain kind of restraint and we cannot call into question.........

Sri J. B. MALLARADHYA.—The statement of objects and reasons clearly says that the High Court has been consulted.

Sri M. C. NARASIMHAN.—Therefore, I am a little hesitant while making remarks on the Bill placed before us by the Law Minister because he may turn round and say that it is the wisdom of the High Court. Since he is smiling, I think he may not take up that like. With great respect to the judges we cannot fail to make one or two observations.

One very important aspect of this Bill and even the Rrport of the Law Commission—let us take the question of delays. One important right that is conferred on the citizen of the Constitution if the writ or extraordinary jurisdiction and extraordinary remedies—when all other remedies are not open to the litigant, he has to go to the writ and seek the decision of the High Court under articles 226, 227 and 228 of the Constitution. I am pained very much to notice that there is enoumous delay in the matter of disposal of writ petitions. It is true that I am not making any accusation against our High Court I am not creating for a moment an impression that the Judges are not fully alive to the needs

of the situation. But I think it is the fundamental mistake of the Government. If the Government had not provided adequate judge power and provided all the facilities to the High Court under the Constitution in order to enable to meet out speedy justice and attend to the speedy disposal of at least this extraordinary petitions—writs are not an ordinary remedy at all. It is therefore absolutely necessary that the State Judiciary and all the available instruments that provided through the political set up in this country should take particular care to see that these petitions are disposed of early. The Law Commission has made a recommendation that normally a writ petition should be disposed and not kept pending for more than six months. But can it be said with confidence either by the Government or by anyother authority that writ petitions lying before the Mysore High Court for more than six months are not there? I myself can quote a number of instances relating to labour matters, because under the Industrial disputes Act, one prime object as declared by the Supreme Court of India is quick disposal of cases and dispensation of justice between the workers and the employers.

There is justification for it because as against a few employers the interests of hundreds and thousands of workers are involved. It is not like a civil suit where the party involved is only one individual. That is why I say where contractual rights are involved if there is no quick disposal it will have very serious social consequences, namely disturbance of production. On July 5th the Government appointed a tribunal headed by Sri Mallimath, but his jurisdiction was questioned. For the last one year this simple procedural question of jurisdiction is hanging on. Only recently I understand that the matter has been disposed of. I know of a number of cases where purely procedural questions like questioning of jurisdiction have gone on for over a year. I do not know whom to accuse. If I go to the Labour Minister he will say, "I cannot do anything in these matters" I am not in a position to go before the High Court also and complain to the High Court that the matter is not disposed of early. I am thus faced with the problem of industrial workers. Workers are supposed to have faith in the adjudication machinrty, but on account of such inordinate delays and not getting quick disposal of their cases though this instrumentality, they are likely to lose their faith in the adjudication machinery. I am only pointing out a fact. It may be that circumstances have conspired against me or it may be that the Government are at fault or it may be that the High Court has not been provided with adequate staff to dispose of the cases early. But as a litigant I am not expected to know what are all the difficulties that come in the way of the Government. It is the duty of the Government, the duty of the legislature and the duty of the High Court to see that there is early disposal or these matter especially when the statute itself lays down that such extraordinary petitions should be disposed of early. When we find that even in

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spite of the Law Commission's recommendations and even in spite of the enactment of the Industrial Dispntes Act which provides for quick disposal of case, there is delay in dispoal of cases I am at a loss to understand what in terms of this Bill we are going to achieve, With due respect to the High Court. I hope the Law Minister will do his best to see that something is done to avoid these delays. It is only with a view to avoid such delays that I thought it necessary to send in an amendment whereby single judges could be entrusted with the take of hearing special matters like writ petitions under articles 226, 227 and 228. There is a possibility of difference of opinion on this point with some other members, but speaking about labour matters on which I can say with a certain amount of confidence, it is necessary that single judges be permitted to hear such petitions. This is the position in Madras where it is working fairly satisfactorily. There it does not take 6 months for a writ to be disposed of. It is true that after a single Judge's decision, there is a possibility of its being heard by a full bench or a panel of two judges. In such matters the consequences are two—fold. One might argue that there is delay. Somebody may say that in the case of single judges there is a remote possibility of extraneous matters coming in affecting the final decision. But in such cases there is always an opportunity to take up the matter before panel of two judges or a full bench. Looking at the question from these angles, there are advantages as well as disadvantages, but one has to look at the balance of convenience in such matters, Having accepted the system of single judges as against the Russian counterpart of multiple Judges, we cannot have much objection to the systen of trial by single Judges in these matters in the interest of quick disposal. Even in this Bill we have provided for trial by single judges in some cases and in some cases by two judges. I do not see the need for such an invidious distinction. May be that where the matter is referred to a panel of two judges, points of law are involved. But having regard to the status and the qualifications prescribed for a high court judge, I cannot for a moment consider that a single judge will not be able to decide questions of law. Suppose he decides a question wrongly, there is always an opportunity for us to go before a panel of judges or a full bench and so I do not see any valid objection to single judge's hearing such questions and deciding them. When once you have proivided for appeal, there is no reason why a single judge should not initially decide such matters. I would suggest that the powers of hearing petitions under articles 226, 227 and 228 may be transferred to a single judge especially in labour matters. I am satisfied with the decision of a single judge. What I primarily want is a quick settlement. I do not care whether it is the Chairman of the Industrial Tribunal who is himself a High Court Judge or a regular High Court judge or the Supreme Court, which gives

the decision, but what I want is immediately settlement of the dispute. What I want to see is that the conditions of labour are improved further and further and the delay in the settlement of disputes is reduced to minimum and there is quik disposal of cases and it is from that point of view that I advocate trial by a single judge.

There is one other matter which I want to refer here. Sri Patil has referred to the failure of the Government, under clause 14, in not repealing the other sections which ought to have been repealed. Having repealed section 20 and retained section 19 I do not know how they can introduce some of this clauses once again. If I understand correctly, the implications of retention of section 19 of the old Mysore High Court Act would be that the High Court would be competent to make all these rules in respect of appeals from the decision of a single judge to a panel of judges. If section 19 is retained and if my interpretation is correct then practically for all these clauses in relation to the power of single judges of the High Court, is it not the proper task of the High Court to make rules providing for all these things as to which are matters to be placed before a single judge or a panel of two judges or a full bench? Having retained section 19, how can you say that you will provide for appeal from a decision of a single judge to a panel of two or more judges?

Lastly, I again endorse the appeal made by my friend Sri V. S. Patil that section 20 of the old Act should be retained as a matter of principle because the regulation of the work of the High Court is certainly not the task of Government but it is solely the task of the High Court itself. It is purely an internal matter which the High Court alone is competent to do.

Lastly, I would urge the Law Minister who is also incidentally Labour Minister to appreciate the point of view regarding labour matters where there has been inordinate delay in the disposal of labour disputes. This is a matter which would lead to a lot of discontent among the workers and, therefore, I would urge him to think of some method of avoiding these delays. If there are no adequate number of judges, at any rate with grant respect to the High Court sufficient number of capable judges, it is the task of the Government, both the Government of India and the State Government to see that adequate number of competent judges are appointed so that efficient justice is disposed of in a proper way.

With these observations I close my speech.

†Sri V. SRINIVASA SHETTY (Coondapur).—Sir, the Hon'ble Minister for Law is an eminent lawyer and needs no plodding from this side. I believe that this bill has been brought before this House to avoid one of the most obnoxious effect of the legal system: justice delayed is justice denied, most cases are not being disposed of expeditiously as they ought to have been. I trust that the Government and the High Court have seen eye to eye in this particular matter. In fact I had written to the

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Hon'ble Chief Minister sometime ago that this Bill be brought and passed into law as early as possible.

My friend, the Law Minister is a person who has had much experience in the High Court and the District Courts. Though I am a lawyer myself, I did not have the same degree of experience as he has had. I fully agree with the views expressed by my leader today, subject to certain modifications which I propose on the basis of my experience as a lawyer. We know that during the last session in answer to a question we heard from our friend Sri Muckannappa that as many as 3,000 writ petitions have been filed. Of course there was a lot of hubub about the number because the Government was unwilling to admit it. The Law Commission has observed that every writ petition should be disposed of atleast within six months. But they are not. The law as it is requires that a division bench should hear all writ applications. I would submit that one need not attach the same degree of importance to all writ cases. Sometimes people rush to the High Court on very minor grounds. I can understand very important and grave matters being heard by a Bench but we cannot apply the same yardstick to all writ applications. I do not know why the Government or the High Court suggested that a division bench should go into all writ petitions. The Law Commission has not expressed itself clearly in the matter. They said that in several courts the practice is to hear writ application by a single judge. In several more high courts it is the practice to hear it by a division bench. They have left the matter to the convenience of the high court themselves. For the information of the House I will read one para from Basu's Commentary on the Constitution:

> "According to the rules made by the Allahabad, Rajasthan, Patna, Orissa and Mysore High Courts, an application under Article 226 lies before a Division Bench. In the Madras, Calcutta, Magpur, Andra, Bombay, Assam and Travancore High Courts, a single judge can exercise the jurisdiction".

A majority of the High Courts seem to be in favour of a single judge. According to the Law Commission. the practice in Madras is the best and it has work very well indeed. I am unable to see why the Government has not modified this point. Disposal by a single judge ensures speedy disposal. With due respect to my friends, I must say that the judges are men like us. There are good judges as there are bad ones. There are intelligent judges and there are others. One good judge is better than two bad judges. Sometimes it happens that more confusion is created by two judges who hold differing views so that we cannot always say that a division bench is always better than a single judge.

Hon'ble Members made some remarks regarding the appointment of judges. Of course it is not very much germane to the discussion here. The Law Commission has had ample to say on this. They have categorically stated that the Government should not poke

their nose in matters concerning appointment of judges. The executive should not interfere with the appointments on communal and political considerations. These are not my words, they are the words of the Law Commission. In the questionnaire sent by them they very specifically mention this. They came to the conclusion that this practice exists and the respect due to the high court is lowered because of this practice where the executive interferes with the appointment of judges, on such considerations.

About the strength of the judges, I am not very much worried whether it is the full quota or less than the quota. If the High Court feels that a few more judges ought to be odded, it should be done. On the question of transfers of judges I am one with those who feel that transfers from one State to another should be done. An outsider is sometimes better than a local judge with all his local affiliations and local friendship.

I feel that this Bill is a necessary piece of legislation and my only regret that it came delated. It was introduced in 1959 and Government have thought it fit to bring it before the House only now. With some minor modifications, I support the Bill.

5–00 P. M.

Sri B. VAIKUNTA BALIGA.—I am indeed very grateful to all the members who have participated in the debate and made very valuable suggestions, suggestions which do not relate to the Bill before the House but also to some other matters. I will not venture to deal with those that are not relevant or within the ambit of the Bill but that certainly does not mean that the Government has not understood the feelings of the members who have expressed themselves in rather strong terms, at any rate in no unequivocal terms. I would also say that so far as the importance of various matters, namely with regard to the constitution and strength of the High Court, goes, the Government yields to none. It is necessary that there should be very strong High Court, independent judiciary with adequate strength to deal with all the matters that come before them and I was indeed very happy to hear the fine tribute that was paid to the work done by the High Court in the recent times and I endorse all that has been said, namely, that the tradition that has been built up by the High Court is of a very high order; justice has been administered very fairly and very quickly and also in a firm manner. Much was said with regard to the delay that is taking place, linking it on to the number of Judges I shall be perfectly right in saying that the number of Judges is nowhere provided in the Bill. As to how many are wanted and how many would be necessary is a point for separate consideration. As I have already submitted, the Government will take note of it. I will not venture to enter into the controversial, perhaps unfounded suggestion made that names have been suggested and counter-proposals have been made. All these things are absolutely beside the Bill and therefore should not have been touched upon either on this occasion or at any other time when particularly there was no data before the House.

Sri V. SRINIVASA SHETTY.—We are quoting from the Law Commission Report.

Sri B. VAIKUNTA BALIGA.—The Law Commission cannot possibly deal with this aspect of the number of High Court Judges.

Sri J. B. MALLARADHYA.—We thought that the judge strength relates to disposal of cases is it beside the point or beside the Bill?

Sri B. VAIKUNTA BALIGA.—I made myself very clear in saying that the number is not going to be varied on any account on account of the provision in this Bill. For all variation, either increase or decrease or maintaining the same level as it prevails to-day is absolutely beyond the provision of this Bill. If the suggestion is, on account of the delay which is going to come out of the provisions of the Bill or on account of other circumstances, that is a separate point altogether. This is why I made myself clear in saying that these suggestions will have the utmost respect of the Government when such matters arise. I would also refer to the circumstance that there has been a pendency and my friend the Leader of the Opposition did not have a copy of the Law Commission Report. As mentioned in the Statemeant of Objects and Reasons, the Law Commission has dealt with various matters.

Sri J. B. MALLARADHYA.—In the Statement of Objects and Reasons you have said that the Law Commission had also been consulted. The point that I made was, what are the aspects with reference to this Bill, which have been referred to in the Law Commission Report. What are the recommendations considered and what modifications have been made; that is all I said.

Sri B. VAIKUNTA BALIGA.—I am indeed very sorry that I did not make myself fully understood and the Leader of the Opposition was also a bit impatient because I was going to read the very matter. Volume II page 664 deals with the matter which was much canvassed by more than one Speaker with regard to the dealing of the writ petition by a single Judge. My friend Sri V Srinivasa Shetty, a Member of the Opposition as well as a member on this side has given notice of an amendment that it should not be heard in the first instance by two Judges but that it may be heard by one Judge. There is much cogency in the reasoning that with regard to the various matters which are now finalised, the principles to govern these various matters are very clear. It may not be necessary to engage the attention of two Judges as is done in some of the High Courts. Writ petitions are being heard by a single Judge and if the right of appeal is given aginst the judgment of as ingle Judge, there will be adequate protection for all the rights that the parties want to litigate. Litigation is an inherent right of the party and litigation particularly with regard to the shape of writ petition is increasing. I shall point out to my friend the Leader of the Opposition with regad to this point that there are several tabular statements which show the pendency in every High Court and if I may say so, so far as

the Mysore High Court is concerned, it was mentioned indirectly by implication that the highest number are pending here and therefore more Judges should have been appointed. If I were to refer to the figures, Mysore does not lead in this respect. In the pendency of number of writ petitions, several other High Courts lead and this is not the time or the occasion for analysing the delays in every High Court with regard the writ petitions. The system of judiciary as is prevailing in Russia was also mentioned and brought in. I really do not know why it was mentioned at all for the reason that under this Bill we are not going to change the system of administration of justice. We are dealing with the procedural details that have to be observed by the High Court regard to the decision on matters that are presented to them. So I will not suggest that I should reply to these things in detail to this extent, namely if it is suggested that every suit, every application, every matter in every court of law should be heard by more than one Judge, possibly it may not be possible for obvious reasons and many reasons also including finance.

Speedy disposal is the ideal for which this Government whole heartedly strives. This Government is not anxious that there should be any avoidable delay with regard to the administration of justice. We have to remember that the new work load, as was pointed out, several kind of litigations which were not there according to the old common law or the law prevailing, is a fact which has to be reckoned with.

Reference was next made by my friend Sri Mallaradhya to section 3 and he seemed to think that is an invasion upon the right of the Chief Justice. I do not think he did see the distributive list, List II–Seventh Schedule item No. 3. It specifically provides that the officers of the High Court should be provided for by the Governor and not by the Chief Justice. Fallacy lies in thinking that the appointment of a Registrar or the number of Deputy Regissrars is going to interfere with the even flow of justice or with regard to the decision on merit with regard to the contentions of rival parties; it has nothing to do with that. I do not know where he got the idea that it is the right of the Chief Justice to make provision whether there should be a Registrar or there should not be a Registrar.

Sri. J. B. MALLARADHYA.—I think it is side–tracking the issue. The Bill specifically provides that the High Court shall have a Registrar and as many Deputy Registrars as may be determined by the Governor. My reference was to these words, whether it should be done by the Governor. Here is the Chief Justice of high standing; he has got to administer justice; he has got to have staff. Where does the Governor come in determining the nnmber of Judges and the allocation. I know that the State Government has got to provide the necessary funds and this House has got to vote the expenditure. Where was the Governor coming in, determining the number of Registrars and Deputy Registrars. We do not know whether the Chief Justice was allowd the choice of Registrar and Deputy Registrars. Sir,

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I can only say that I am unable to accept the contention for the reason that under item 3, State List II, the provision gives the right to the State to legislate for servants and officers of the High Court. It is nowhere stated that the Chief Justice will be in charge of providing the officers and servants of the High Court. Then, section 3 does not deal with the personnel, nor does it limit the number. It only says what officers should exist. There is one Registrar—there is absolutely no doubt. There are various High Court in various States. The procedure is laid down. Suddenly to raise an argument that this High Court shall have a Registrar as provided in this Bill and there is some infringement on the power of the Chief Justice is something ununderstandable. The Government should determine it and not the Chief Justice. Appointment of the personnel, the individual that should fill the post is done by the Chief Justice. Confusion lies in the idea that this section provides for the appointment of Mr. A or Mr. B or Mr. C.

Sir, the points that are to be dealt with by single Judges has again been a subject of study at various times and by various bodies like the Conference of the Law Ministers and the Law Commission. I can certainly say that this is a very vexed subject as to what should and what should not be determined by a single judge and what should be by a Bench of Judges. I would refer to one or two things that is provided for to be heard by a single judge. I refer to clause 9 sub-clause (1) "determing in which several courts having jurisdiction a suit shall be heard; (ii) admission of an appeal in *forma pauperis*; (iii) exercise or original jurisdiction under any law for the time being in force......"

Sir, does all these require the mind of two judges ?

Sri J. B. MALLARADHYA.—None of us have taken objection for these except 3.

Sri B. VAIKUNTA BALIGA.—Sir, general argument was advanced that every matter should go before two judges. I am glad, that there is unanimous support for these clauses other than 3. With regard to 3, I refer Mr. Mallaradhya. to Mr. Srinivasa Shetty and Mr. Srinivasa Shetty to Mr. Mallaradhya (*laughter*) With regard to appeal to the Supreme Court, there is no force in the argument whether statutory value or market value of the suit is taken. Sir, the market value is taken for determining as to whether an appeal should lie to the Supreme Court or not. Then, I refer to section 11-High Court to keep registers. The previous Act provides for it. What is provided is to maintain a record as to what has transpired and it is nothing to do with the exercise of the power by the High Court or administration of justice or the pronouncement of the judges.

Sri J. B. MALLARADHYA.—Sir, what we said was, the words "as may be required by the State Government." is not correct.

Sri B. VAIKUNTA BALIGA.—Sir, account have to be maintained by the High Court and Government should have a right to say what should be maintained. I do not think anybody would say that High Conrt should not maintain account I do no think that there is much merit in this also. When we say that accounts are necessary, registers are necessary. These rules have been there as before. Rules hgave been framed up till now. This is there in every State. What has been wrong in putting it here, I am not able to understand.

With regard to Vacation Judges, it was suggested that there should be two in regard to all matters. In vacation it is only urgent and immediate matters that are dealt with and the matter is again coming up for further consideration at a further date. I do no know any where two judges are sitting during the vacation. Sir, the new idea that has been suggested, I regret to say, I am unable to accept.

Sri G. VENKATAI GOWDA.—What about the proviso to section 5 Sir ?

Sri B. VAIKUNTA BALIGA.—Sir, there is confusion in the arguments advanced. What he says is :

> "Provided that a Criminal Appeal from a judgement in which no sentence of death or imprisonment for life, or imprisonment for a period exceeding seven years, is passed against any accused, who has preferred an appeal, may be heard by a single judge of the High Court."

It only means in cases which are not of such grave importance.

Sri G. VENKATAI GOWDA.—What we say is, supposing section 305 gives punishment of ten years. The Judge may give a punishment of two years only.

Sri B. VAIKUNTA BALIGA.—The idea that is mentioned is that if there is a punishmeut that is inflicted under the IPC up to Rs. 1,000 therefore the right of second appeal should lie. I do not think that such a thing prevails any where. But if at any time it is found that there is any change called for, Government will be too glad to consider it.

My practice has no bearing on this question of what should or should not be done. We are not enacting laws on individual cases inwhich I may appear. We are dealing with matters as such.

Sir, I will refer to article 217.

MR. DEPUTY SPEAKER.—There are only 10 minutes.

Sri B. VAIKUNTA BALIGA.—I will then pass on to the points raised by my friend Sri V. S. Patil. He said that this Bill should be styled as an Amending Bill. He forgets that the act 1884 was enacted in Mysore State before the creation of the seventh schedule of the Constitution. When that Act is deemed to have been enacted by Parliament in its powers under the Union list, therefore it is not

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possible to amend that Act through this amending Act. This will continue as a separate Act because the points that are dealt with are within the competence of the State Legislature. Therefore this cannot be treated as an amending Act. The old Act will not be repealed by this Bill. That will continue on the Statute Book to the extent that it is not repealed. So far as other points are concerned, this is a new legislation. The S. R. Act was a temporary measure till this Bill was enacted. Now there has been a bifurcation and what is covered by the Act of 1884 is partly continued by the Government of India and partly by the State Legislature. If you bear in mind this simple fact, there is no confusion at all.

My friend Sri M. C. Narasimhan referred to labour cases. One thing I have mentioned time and again. With regard to the administration of justice, Government must not embarass the High court, by saying which case should be heard on what date and which court—all that is a matter exclusively within the jurisdiction of the Chief Justice and to lay any charge against the Government or to say that Government should request the Chief Justice to post any particular case in a particular manner and say that a particular case is to be decided within a particular time—I do not think that such a thing is possible.

Sri G. VENKATAI GOWDA.—He never asked that. He only said that power may be vested in a single judge and that will conduce to speedy disposal. To that extent, he is lending support to your idea of single judge.

Sri B. VAIKUNTA BALIGA.—Sir, my friend Sri M. C. Narasimhan suggested that the writ petitions relating to labour should be heard by a single judge. I do not know whether it has the unanimous support here.

Sri J. B. MALLARADHYA.—Not mine at any rate.

Sri B. VAIKUNTA BALIGA.—Therefore Sir, there can be more than one opinion prevailing in regard to this and the views of the House will have to be gathered before the suggestion of Mr. M. C. Narasimhan is accepted At any rate, at present I am not going to accept it.

I will deal with the amendments as they come. Certainly my friend cannot say in one word that all labour legislation and labour disputes should be disposed by a single judge, in a single day.

Sri V. S. PATIL.—Sir, I want to know when you want to repeal section 20 of the Mysore High Court Act which concerns with the rule-making power. You are repealing that section under clause 14.

Sri B. VAIKUNTA BALIGA.—Would my friend refer to the Constitution which provides for the rule-making power to the High Court with regard to subordinate courts. Therefore it should not be provided for again because the statute provides for it. The other rules that exist under

the Act of 1884 relates to accounting and they are not repealed. Article 227 if my friend will see, he can understand how far his argument can be accepted.

"227. (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction......"

I am really surprised, let my friend read section 19 of the old Act.

Sri G. VENKATAI GOWDA.—Does not section 19 cover clauses 4 and 5 of the new Bill ?

Sri B. VAIKUNTA BALIGA.—The High Court is competent to make rules under 227. Please read :

"(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts."

he jurisdiction and the power to frame rules is certainly provided under this Act by the Government because it is well within the competence of the State Legislature.

Finally it was said that there were certain defects ever under the old Act.

Sri J. B. MALLARADHVA.—We have raised the point whether repealing section 20 of the old Act by clause 14 was in order. You have invited our attention to article 227 of the Constitution. I want to know whether it is sufficient answer. If necessary, I shall move for extension of time. Let us have a proper answer. Article 227 reads :

"......(2) without prejudice to the generality of the foregoing provision, the High Court May—

(a) call for returns from such Courts ;

Sri B. VAIKUNTA BALIGA.—That is a statutory power vested in the High Court. Therefore, they cannot be provided for here again.

Sri J. B. MALLARADHYA.—Is it only with reference to subordinate courts that the rule making powers exist ? In other matters also, the High Court can make rules. I am talking of the general rule making power which vests in the High Court now. Therefore, what is found in section 20 is partly covered by article 227. Is that the point my friend is making ?

5–30 P.M.

Sri J. B. MALLARADHYA.—I do not agree there.

Sri B. VAIKUNTA BALIGA.—I am sorry I am unable to accept that argument.

Then I will refer to the points raised with regard to definitions. I would refer my friends to the difinitions of Chief Justice, Criminal appeal, High Court, etc. Chief Justice means the Chief Justice of the High Court of the State of Mysore. Similarly, High Court means the High Court of the State of Mysore. If you refer to the definition in the old Act you will find the difference. Here you see that it is defined as

(Sri B. VAIKUNTA BALIGA)

the High Court of the State of Mysore. Therefore there is nothing inconsistent. Similar is the case with regard to the definition of Chief Justice also. It will thus be seen that these definitions are not conflicting and are not redundant but are only clarifying the position so that there may not be any doubts raised later on.

Sir, I have ventured to refer to most of the points raised during the debate. I hope the House will accept the Bill.

Mr. DEPUTY SPEAKER.—The question is :

"That the Mysore High Court Bill, 1959, be taken into consideration."

*The motion was adopted.*

Mr. DEPUTY SPEAKER.—We will consider the Bill clause by clause.

The question is :

"That Clauses 2 to 8 both inclusive, stand part of the Bill."

*The motion was adopted.*

Clauses 2 to 8 both inclusive, were added to the Bill.

Sri K. S. SURYANARAYANA RAO.—I beg to move.

"That Items (x) and (xi) shall be re-numbered as items (xi) and (xii) and after item (ix), the following item shall be inserted, namely :—

"(x) exercise of the powers under—

(a) clause (1) of Article 226 of the Constitution of India ; and

(b) Articles 227 and 228 of the Constitution of India.

Mr. DEPUTY SPEAKER.—Amendment moved :

"That Items (x) and (xi) shall be re-numbered as items (xi) and (xii) and after item (ix), the following item shall be inserted, namely :—

"(x) exercise of the powers under :

(a) clause (1) of Article 226 of the Constitution of India ; and

(b) Articles 227 and 228 of the Constitution of India.

†Sri K. S. SURYANARAYANA RAO.—There is nothing much to add to what has already been said by both sides of the House. It is only in keeping with the views expressed in the House that I have moved this amendment and I commend this amendment to the acceptance of the House.

†Sri V. SRINIVASA SHETTY.—I am very glad that once in a way at least the other side sees eye to eye with this side and that once in a way common sense prevails on both sides. I take it that since the whip of the ruling party has moved this amendment, the Government also sees eye to eye with this amendment. I do not know why the Hon'ble

Minister failed to see eye to eye with my argument and he wanted his own party man to move the amendment. If expedition is the aim of the High Court, then I agree with this amendment. In view of the very large number of writ petitions Government will be putting more and more restraints upon the court and that in turn will result in still further number of writ petitions and increase in the work of the High Court and naturally they have to think of expeditious disposal of the cases. I appreciate the spirit with which Government have accepted the principle behind this amendment and I commend it to the House.

†Sri J. B. MALLARADHYA.—Sir I do not quite understand this amendment at all. The existing practice of the Mysore High Court is that cases falling under article 226, 227 and 228 are being tried by a bench of Judges. Unless Government proves to the satisfaction of this House that system is not functioning well or that it has created difficulties, I do dot know the appropriateness of this amendment. The whole object of the Bill is to see that there is speady disposal. The fact that this amendment has come after the Bill has been with the Government for over two years makes me apprehensive of the way in which the mind of the Government is working. I want to know why this amendment has been brought at this late stage. Sri. Srinivasa Shetty agreed with the Law Minister and said that there are various categories of writ petitions. I agree with that. Having agreed that writ petitions can be disposed of by a single Judge, you think of categories of writ petitions and think that certain categories of writ petitions can be heard by two judges. I feel that this amendment is very detrimental to the interests of a very large number of persons and I have my fundamental objection to this.

Sri G. VENKATAI GOWDA.—Sir, I support Sri Mallaradhya when he says that we should not accept this amendment because in all the High Courts in India the powers under articles 226, 227 and 228 are exercised by a full bench. We should not be an exception to this.

†Sri M. C. NARASIMHAN.—The suggestion made by my friend Sri Venkatai Gowda that in other High Courts there is no provision for hearing by a single Judge, is not correct. My friend Sri Srinivasa Shetty pointed out a number of high courts where there is provision for single Judges to hear writ petitions. We should not lose sight of the fact that a writ petition is an extraordinary remedy. This is not a remedy which is available to a person after all the procedures are gone through. This is only an extraordinary remedy involving questions of fundamental rights and there is a necessity for admission to be taken up by a single Judge. After all, the decision of a single Judge is not conclusive and so the question of justice being adversely affected does not arise at all because there is a second opportunity to take the case to a full bench. In several enactments we find that the decision of a Judge is final and there is no appeal against it and the only remedy available is the extraordinary remedy of a writ petition.

(Sri M. C. NARASIMHAN)

There will be no possibility of an appeal, it being processed as first and second appeals. Therefore it is necessary to provide for a machinery whereby first it is admitted and a second opportunity is given for a second consideration. In the interest of justice it would be better if it is processed twice over. It may mean some delay but it cannot be avoided. Though appeal is provided in most cases, it is only a few cases that really go up on appeal. Appeal is also provided from the decision of the High Court to the Supreme Court and of course there is the question of cost involved. That argument would not be correct in the present disposition, particularly in view of the very large number of writ petitions. In any High Court, for that matter, writ petitions form the work of the Court because several laws are being challenged. After all whether the matter is considered by two judges or a full bench, it is always safer and better to give room for a second thought.

Sri G. VENKATAI GOWDA.—There is no scope for a second hearing now.

Sri B. VAIKUNTA BALIGA.—Clause 4 comes to your help.

Sri M. C. NARASIMHAN.—Clause 4 provides for it. There is no difficulty there because it is original jurisdiction. The mistake is that clause 10 provides for a decision by two judges. Unless it is brought under clause 9 specificallay, you cannot avail of the opportunity provided under clause 4. If there will be an appeal from a decision of a certain judge as provided in clause 4, it should be brought within the ambit of clause 9.

Sri Y. VEERAPPA.—Sri Mallaradhya has referred to clause 9 (3) and the disposal of writ petitions. After the Minister's clarification, I do not know why this amendment has been brought forward. Several Members have argued that it is not safe to give disposal of writ petitions to a single judge. I do not know how by an amendment of such vital character, the purpose of the bill is going to be altered.

†ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ.—ಸ್ವಾಮಿ, ಶ್ರೀಮಾನ್ ಸೂರ್ಯನಾರಾಯಣರಾಯರು ಈ ರೀತಿಯ ತಿದ್ದುಪಡಿಯನ್ನು ಕೊಟ್ಟಿರುವುದು ನಮಗೆ ಗೊತ್ತಿದ್ದರೆ ಈ ಮಸೂದೆಯಲ್ಲಿರುವುದೇ ಸರಿ ಎಂದು ಸಿದ್ಧಮಾಡುತ್ತಿದ್ದೆವು. ಇಬ್ಬರು ನ್ಯಾಯಾಧಿಪತಿಗಳ ಕೈಯಲ್ಲಿರುವ ಅಧಿಕಾರವನ್ನು ಕಿತ್ತುಕೊಂಡು ಒಬ್ಬರಿಗೆ ಕೊಡುವುದಕ್ಕೆ ಹೊರಟಿದ್ದಾರೆ. ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಉತ್ತರ ಹೇಳುವಾಗಲೂ ನಮಗೆ ಇಬ್ಬರು ನ್ಯಾಯಾಧಿಪತಿಗಳೇ ಇರುತ್ತಾರೆನ್ನುವ ಅಭಿಪ್ರಾಯ ಬಂತು. ಈಗ ನ್ಯಾಯ ಮಂತ್ರಿಗಳಾಗಿರುವವರು ಮಂತ್ರಿಗಳಾಗುವುದಕ್ಕೆ ಮುಂಚೆ, ಶ್ರೀ ಪಾಂಟಿಗಯ್ಯನವರ ರಿಟ್ ಅರ್ಜಿಗಳ ಸಂಬಂಧದಲ್ಲಿ ತೀರ್ಪುಕೊಡುವುದಕ್ಕೆ ಏನಾಯಿತು, ಅನಂತರ ಏನಾಯಿತೆಂಬುದನ್ನು ಎಲ್ಲರೂ ಅರ್ಥ ಮಾಡಿಕೊಂಡಿದ್ದೇವೆ. ಕೊನೆಗೆ ರಾಜಿಯಾದರೂ ಅವರು ಪುನಃ ರಿಟ್ ಮೂಲಕ ಹೈಕೋರ್ಟ್ ಮುಂದೆ ಹೋಗಿದೆ ಹೀಗೆಲ್ಲ ಇರುವಾಗ ಒಬ್ಬರ ಕೈಯಲ್ಲಿ ಅಧಿಕಾರವಿದ್ದರೆ ಏನಾಗುತ್ತದೆಂದು ಯೋಚನೆ ಮಾಡಬೇಕು. ಯಾರು ಏನೇ ಹೇಳಲಿ, ನನ್ನ ಅಭಿಪ್ರಾಯದಲ್ಲಿ ಒಬ್ಬ ನ್ಯಾಯಾಧಿಪತಿಗಳಿಗೆ ಅಧಿಕಾರವನ್ನು ಕೊಡುವುದರಿಂದ

ಜನರಿಗೆ ತೊಂದರೆಯಾಗುತ್ತದೆ. ಇಬ್ಬರು ನ್ಯಾಯಾಧೀಶರು ಕುಳಿತು ಕೇಳಿದರೆ ನ್ಯಾಯ ದೊರೆಯುತ್ತದೆ ಎಂದು ಹೇಳಬಹುದು. ಆದುದರಿಂದ ಈಗ ಬಿಲ್ಲಿನಲ್ಲಿರುವ ಹಾಗೆಯೇ ಇರಬೇಕು, ತಿದ್ದುಪಡಿಯನ್ನು ಒಪ್ಪಿಕೊಳ್ಳುವುದಕ್ಕಾಗುವುದಿಲ್ಲವೆಂದು ಹೇಳುತ್ತೇನೆ.

Sri J. B. MALLARADHYA.—After the Hon'ble Minister had made the statement, did not he have the concurrence of the High Court to this amendment. This amendment is being thought of at a delated stage. This amendment affects a vital change in the scheme of the bill and the High Court ought to have had its say in the matter. Did the Minister consult the High Court ?

Sri B. VAIKUNTA BALIGA.—I am surprised that the Leader of the Opposition is trying to bring in something which is not at all there. Every Member has got a right to move an amendment. The concurrence of the High Court is not required for a Member to move an amendment.

Sri J. B. MALLARADHYA.—My friend the Law Minister is an adopt in the art of making the less appear the better so that he can easily gloss over another material point. I never suggested that Sri Suryanagayana Rao has no right to move the amendment that he did because it is a right guaranteed to him. My point is whether this particular amendment was brought to the notice of the High Court and whether the High Court has said anything about it. This amendment seeks to radically affect an existing provision. At present two judges are hearing writ petitions would it be reasonable to consult the High Court in such an important matter. Has the Law Minister talked to them atleast on the phone ?

ಶ್ರೀ ಸಿ. ಜೆ. ಮುಕ್ಕಣ್ಣಪ್ಪ.—ನಾನೂ ಅದನ್ನೇ ಹೇಳುತ್ತೇನೆ. ಮಾನ್ಯ ಸದಸ್ಯರು ಸೂಚಿಸಿರುವ ತಿದ್ದುಪಡಿಯ ಬಗ್ಗೆ ಹೈಕೋರ್ಟಿನ ಸಲಹೆ ಏನೆಂದು ಕೇಳಿದ್ದೀರಾ ? ಹೈ ಕೋರ್ಟನ್ನು ಕೇಳಿ ಏಕೆ ತರಬಾರದು. ಈಗ ವಿಧೇಯಕದಲ್ಲಿರುವಂತೆ ಒಪ್ಪಿಕೊಳ್ಳುವುದಕ್ಕೆ ಅಭ್ಯಂತರ ವಿಲ್ಲ, ಆದುದರಿಂದ ಈ ತಿದ್ದುಪಡಿಯನ್ನು ಮಾನ್ಯ ಸದಸ್ಯರು ವಾಪಸ್ಸು ತೆಗೆದುಕೊಳ್ಳಲಿ ಎಂದು ಹೇಳುವವರ ಪೈಕಿ ನಾನೂ ಒಬ್ಬ. ಹೈ ಕೋರ್ಟಿಗೆ ಇರುವ ಸ್ವಾತಂತ್ರ್ಯವನ್ನು ಏಕೆ ಕಿತ್ತು ಕೊಳ್ಳಲು ಪ್ರಯತ್ನ ಮಾಡುತ್ತೀರಿ ಎಂದು ಹೇಳಿ, ನಮ್ಮ ಸ್ನೇಹಿತರಿಗೆ ದಯವಿಟ್ಟು ಈ ತಿದ್ದುಪಡಿಯನ್ನು ಹಿಂದಕ್ಕೆ ತೆಗೆದು ಕೊಳ್ಳಿ ಎಂದು ಮನವಿ ಮಾಡಿಕೊಳ್ಳುತ್ತೇನೆ. They have not consulted the High Court. How can they change the Bill now.

Sri T. D. MARANNA.—The Hon'ble Member Mr. Suryanarayana Rao has a right to move an amendment and no other Member can dispute his right.

Sri C. J. MUCKANNAPPA.—It is a party Government that is in power. Mr. Suryanarayana Rao represents the party. He forms part and parcel of the Government.

Sri K. S. SURYANARAYANA RAO.—Sir, I never thought that this amendment needs a reply but since so many members have raised many points during the course of the debate, I feel I have to make my position clear. The Leader of the Opposition and every other Member quoted chapter and verse from the Law Commission's report...

Sri J. B. MALLARADHYA.—Like the angel, not like the devil. That isthe difference.

Sri C. J. MUCKANNAPPA.—On a point of order...

Mr. DEPUTY SPEAKER.—Yes. Sri Suryanarayana Rao has no right of reply. Only the Minister can reply to the amendment.

Sri B. VAIKUNTA BALIGA.—So far as the Government is concerned, it will certainly abide by the decision of the House. I do not like to say anything on the point.

Sri G. VENKATAI GOWDA.—Is he going to accept the amendment?

Sri B. VAIKUNTA BALIGA.—I have not accepted.

Sri J. B. MALLARADHYA.—It is usual, when any amendment is moved, for the Minister to say whether he accepts the amendment or not. It is not merely leaving it to the verdict of the House. A convention is established that when an amendment is placed before the House, he will say that he accepts the amendment or he does not accept the amendment. I appeal to him with special emphasis that he should not accept the amendment. It is not a question of our trying to win a point.

Sri B. VAIKUNTA BALIGA.—He should have heard me saying that I am not accepting the amendment. I have said it.

Sri K. S. SURYANARAYANA RAO.—I press the amendment.

Mr. DEPUTY SPEAKER.—The question is:

"That items (x) and (xi) shall be re-numbered as items (xi) and (xii), and after item (ix), the following items shall be inserted, namely:—

"(x) exercise of the powers under—

(a) clause (1) of article 226 of the Constitution of India; and (b) articles 227 and 228 of the Constitution of India".

*The amendment was adopted.*

Mr. DEPUTY SPEAKER.—The question is:

"That clause 9 as amended stand part of the Bill"

*The motion was adopted.*

Clause 9 as amended was added to the Bill.

Mr. DEPUTY SPEAKER.— There is an amendment to clause 10.

Sri K. S. SURYANARAYANA RAO.—I move:

"That item (iv) shall be omitted, and item (v) shall be re-numbered as item (iv)."

Mr. DEPUTY SPEAKER.—The question is:

"That item (iv) shall be omitted, and item (v) shall be re-numbered as item (iv)."

*The amendment was adopted.*

Mr. DEPUTY SPEAKER.—The question is:

"That Clause 10 as amended stand part of the Bill."

*The motion was adopted.*

Clause 10 as amended was added to the Bill.

Mr. DEPUTY SPEAKER.—Clauses 11 to 14 both inclusive. The question is:

"That Clauses 11 to 14, both inclusive, stand part of the Bill."

*The motion was adopted.*

Clauses 11 to 14, both inclusive, were added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 1, short Title and Preamble. The question is:

"That Clause 1, the short Title and the Preamble stand part of the Bill."

*The motion was adopted.*

Clause 1, the short Title and the Preamble were added to the Bill.

*Motion to pass*

Sri B. VAIKUNTA BALIGA.—Sir, I move:

"That the Mysore High Court Bill, 1959, as amended, be passed"

Mr. DEPUTY SPEAKER.—The question is:

"That the Mysore High Court Bill, 1959, as amended, be passed."

*The motion was adopted.*

Mr. DEPUTY SPEAKER.—The House will now rise and will meet tomorrow at 1 p. m.

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*The House adjourned at Fifty-five Minutes past Five of the Clock to meet again at One of the Clock on Tuesday, the* 25th *July* 1961.

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